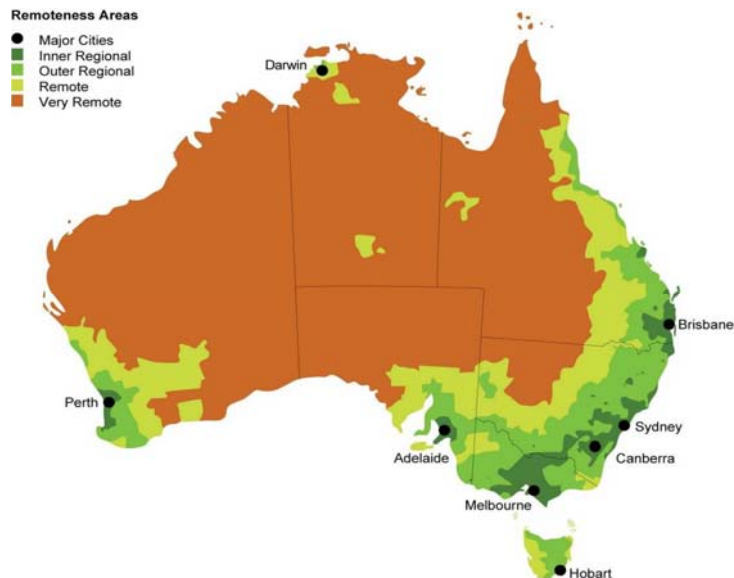


remoteFOCUS



The Challenge, Conversation, Commissioned Papers and Regional Studies of Remote Australia

August 2012

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remoteFOCUS

The Challenge, Conversation, Commissioned Papers and Regional Studies of remote Australia

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1. The Challenge of Governance in Remote Australia

Professor Ian Marsh

Public concern about remote Australia focuses on the wellbeing of Indigenous Australians - this is reflected both in the role that the federal government has adopted and in the responsibilities that it has assumed. The remoteFOCUS report¹ argues that this is insufficient: the scope of policy needs to be extended to include all the residents of this area and the delivery of services radically decentralised. Extension of the scope of policy to all residents is essential for at least four reasons:

The potential to develop regional economies, which is critical to Indigenous development, implicates all other residents and these decisions need to be taken jointly.

The increasingly youthful Indigenous population will inevitably play a larger role in the unfolding of overall developmental strategies.

Land Rights means the influence of Indigenous communities on access and use of remote places is vastly increased and they are often key stakeholders in any larger economic decisions affecting these regions.

Fund flows to Indigenous communities and to repair backlogs in services are an important element in regional economies and thus potentially affect all residents.

The delivery of services needs to be radically decentralised to honour sentiments and intentions that have been repeated frequently but that have proved impossible to translate into practice. Despite this, no official body has ever questioned the basic framework for programme delivery or asked whether **governance** might itself be a primary contributor to policy failings. By contrast, the adequacy of present governance arrangements is the focus of the remoteFOCUS project.

It is instructive to recall how frequently and how repeatedly the need for collaboration with affected citizens and more contextualised solutions has been invoked as fundamental to policy success. For example, focusing only on Indigenous Australians, the most recent policy statement (*Framework for Engaging with Indigenous Australians*, November 2011) states:

Genuine engagement with Aboriginal and Torres Strait Islander Australians is fundamental to our efforts to improve life outcomes and close the gap in the Indigenous disadvantage.

¹ Walker BW, Porter DJ, and Marsh I. 2012 *Fixing the Hole in Australia's Heartland: How Government needs to work in remote Australia*, Desert Knowledge Australia, Alice Springs

A critical step in improving outcomes for Aboriginal and Torres Strait Islander Australians is for government agencies, service providers and contractors is to engage them as valued stakeholders in the development, design, implementation, monitoring and evaluation of policies, programs, services and legislation that have an impact on them.

Also in November 2011, the Commonwealth released its *Indigenous Economic Development Strategy* which states:

Government cannot act alone. Success depends on working in partnership with Indigenous leaders communities and individuals and with business, industry peak bodies and non-government organizations

Closing the gap requires a genuine partnership with Indigenous Australians at all levels and the Government is committed to a relationship based on trust and mutual respect

Real sustainable change cannot be achieved by government alone. It relies on Indigenous Australians, the private sector, the not-for-profit sector and all levels of government

Genuine engagement with indigenous Australians is fundamental to the Australian government's efforts to increase personal and economic well-being and close the gap in Indigenous disadvantage. (Indigenous Economic Development Strategy 2011- 2018 P18/19)

Writing in 2005, Dr Peter Shergold, the former Secretary of DPMC and a primary author of the current framework, has observed:

'We need to drive governance programs in the direction of connectedness. Programs need to be made more flexible, responsive to community needs and priorities and delivered in a holistic manner....More importantly, there needs to be a delivery of programs in a seamless manner to local communities' (2005)

In a further speech in 2006, he voiced his personal frustration at the persistent failure to achieve significant change:

'I am aware that, for some fifteen years as a public administrator, too much of what I have done on behalf of government for the very best of motives has had the very worst of outcomes.....In my personal opinion three things need to be done....We need to tailor government programs to the particular circumstances of discrete communities.....We must ensure that discretionary government expenditures are negotiated to goals that address local needs....Community challenges are almost invariably holistic in their nature and require a variety of programs from all three tiers of government to be delivered in a coordinated whole of government manner....' (2006).

These particular sentiments are echoed in more general terms in recent reports on broader public sector reform. At the federal level, such ideas figure prominently in the Moran Review (*Ahead of the Game, Blueprint for the Reform of Australian Government Administration*, March 2010); and at a state level, in the Western Australian Economic Audit Committee Report (*Putting the Public First, Partnering with the Community and*

Business to Deliver Outcomes, October 2009). This latter report is particularly relevant. For example, it asserts that ‘agencies operating in silos will be a thing of the past’. It also envisages a radical decentralisation of programmes via the introduction of self managed budgets and devolution of programme responsibilities to communities and community organisations (p. 47). Both these reports underline the profound challenge to centralised processes, cultures and organisational and budgetary arrangements that are involved in the next iteration of public sector reform.

The most recent comprehensive overview of the Indigenous policy framework by a senior official team (*Strategic Review of Indigenous Expenditure*, Department of Finance, February 2010) identified the many obstacles that continue to confound achievement of espoused outcomes. This report repeatedly stresses the need for more contextualised approaches and more local engagement (e.g. p. 13, p. 27, p. 53, p. 73, p. 246, p. 247, p. 248, p. 325). But the Finance review then also concluded that ‘the persistence of ... difficulties is more a reflection of the scale and complexity of the task than it is of inadequacies of governance’ (p. 298).

Similar contradictory themes are to be found in the most recent assessment of persistently disappointing outcomes (*Overcoming Indigenous Disadvantage*, Productivity Commission, August 2011, p. 9). In discussing what needs to be done, this report also emphasised the importance of local engagement and sensitivity to context:

Analysis of the ‘things that work’, together with wide consultation with Indigenous people and governments, identified the following ‘success factors’:

- *cooperative approaches between Indigenous people and government - often with the non-profit and private sectors as well*
- *community involvement in program design and decision making – a ‘bottom-up’ rather than ‘top-down’ approach*
- *good governance – at organization community and government levels*
- *ongoing government support – including human, financial and physical resources.*

The lack of any of these factors can result in program failure.”

But the Productivity Commission did not then take the next logical step to suggest structural change and more place based approaches.

Indeed resistance to taking anything but a nationally consistent approach is emphasised in the Treasury Red Book (2010), which warned the incoming Gillard government: ‘The extent to which regional policies can influence settlement patterns is likely to be limited..... Historical experience shows regional settlement policies are expensive and inefficient and result in an inefficient allocation of resources. This will be particularly the

case in a full employment economy where any short term employment and economic gains of one locality will inevitably come at the expense of another...'²

This report reaches wholly contrary conclusions. Specifically:

- First, it demonstrates that **governance arrangements are a threshold cause of policy failure**. As discussed later in detail, centralised protocols and siloed departments undercut local responsiveness. Reframed governance will not of course by itself 'solve' the many problems of local communities. That can ultimately only be achieved with the active involvement of the affected citizens. This is the essence of so-called 'wicked' public policy problems. Solutions invariably require the active participation of affected citizens, their families and other relevant groups and representative organisations. No solution is possible without such engagements. But this essential **mobilisation is negated by the present governance framework and cannot be remedied within it**.
- Second, policy for remote Australia needs to be separately conceived and framed. This zone constitutes 85% of Australia's land mass, but is occupied by only 4.5% of the population. Of this number, 24% are Indigenous Australians, indeed their 1200 communities scattered across the inland represent the only secure settlements in this vast, undefended, resource rich zone. In essence, the circumstances and challenges of remote Australia are wholly different from those that confront metropolitan or rural citizens. To cite only one critical factor: the role of government in the economy that may be appropriate for metropolitan and rural communities does not fit remote Australia. **The prosperous mining precincts, the homeland settlement household and communal economies and the great pastoral estates all implicate government in a primary economic role quite unlike that which exists elsewhere in Australia**.
- Third, the challenge in designing new policies for remote Australia is a strategic one: a rethink from fundamentals is required. This covers the appropriate governance arrangements for this critical zone. **A paradigm shift in policy – one that challenges structurally embedded habits, practices, and approaches – will always be hard to accomplish**. This is treble hard in Australia's policy systems which has few if any platforms which can host such exchanges. Think of the recent Department of Finance Strategic review. This fundamental report was only published after a freedom of information request. The citations in the report are invariably to other government reports. The broader thinking, reflected in the bibliography associated with this present document, did not figure. The authors are distinguished public servants. Their competence and decency are beyond question. Their limited frame reflects a systemic problem. An appropriate discussion of possible new policy frameworks – one that is sufficiently open to new evidence and new concepts, that is serial and sufficiently protracted,

² <http://www.treasury.gov.au/contentitem.asp?ContentID=1875&NavID=>

and that is not immediately politicised - is (to say the least) very difficult in the present Australian policy system.

At the heart of this report is a simple claim: there is an imperative need to reframe governance. This composite concept recognises the essential interdependence between the formal apparatus of the state and its publics. The parties are engaged in a dynamic exchange: the opposite of directed, deferential, passive or paternalistic linkage. In achieving positive and sustainable outcomes, engagement has a primary not a secondary role. In other terms, **the capacity and right of citizens to participate in the choices that affect them is integral to any conception of governance**. Meantime, one powerful reason for enhanced attention to governance arises from the seemingly intractable social issues which government's now must tackle. These are generally systemic in character and the relevant system is place based – siloed approaches are ineffective and, as later evidence demonstrates, can compound the problems that they are intended to redress. This report explores the fresh challenges associated with the continued unfolding of these imperatives as they apply to remote Australia.

Remote Australia is distinctive not only for its sparse population, desert and savannah environments and vast distances, but also for the dimensions and scope of the public policy challenge: on one side, Indigenous citizens who are the most marginalised of all Australians and on the other, an unprecedented resources boom that is intensively affecting several of its regions. A further factor is an overlapping sharing of policy responsibilities between federal and state government. Public policy has focused specifically on Indigenous Australians, but most recently via metrics and frameworks that focus on relative individual disadvantage. This framing not only sustains welfare dependency it also ignores the primary inter-dependence of Indigenous and non-indigenous communities. Indigenous Australians constitute just under twenty-five percent of the remote population. Their futures are necessarily implicated in these wider settings. Further, whilst the present framing gestures to the systemic and contextual character of policy challenges, we will see that practice falls far short of this ideal.

The present policy framework is parsed as 'closing the gap'.³ This presumes the centre knows best what the outcomes should be. ⁴ In other words, if they enjoy the same broad material opportunities and material circumstances, all Australians will march to the same

³ According to the Prime Minister's Report (2011): 'The Australian government's agenda to close the gap in Indigenous disadvantage is driven by three important imperatives: to overcome decades of underinvestment in services and infrastructure; to encourage and support personal responsibility as the foundation for healthy, functional families and communities; and respect between Indigenous and non-Indigenous Australians.'

⁴ According to Mick Dodson: 'What we've done consistently (in this country) is a top-down approach where policy is developed through party politics...the Aboriginal and Torres Strait Islander people are rarely involved in that process....the answer is to work with Aboriginal and Torres Strait Islander people because we know what the problems are..we ought to be in charge of the answers.' (www.onlineopinion.com.au/print/article/12535, accessed 31 August).

drum beat. This strategy, honourable though its intent may be, ignores both the distinctive history of Australia's Indigenous peoples and the diversity of the non-Indigenous Australian community. It ignores the principle that is the heart of non-indigenous citizenship. This acknowledges as primary a **democratic right of choice**.⁵ Moreover, this right is seeded, **cultivated and exercised through voice and through direct and practical engagements**. Of course powerless and marginalised citizens can be uncomfortable conversationalists.⁶

These considerations are critical in the development of policy both for remote Australia and for Indigenous Australians. If equal democratic citizenship, as both practice and orientation, is the objective, the development of agency amongst Indigenous Australians is a pre-eminent challenge. This is partly because capacities vary between communities, partly because communities must largely author their own solutions, and partly because the futures of Indigenous and non-indigenous Australians need to be linked. Participation is required not only as a fundamental right of citizenship, but also (as all official and independent studies attest) as the only sound basis for effective policy. Yet from a governance perspective, remote Australia has been increasingly subject to paternalistic and top-down direction and control. It is not presently recognised as a distinctive domain - one with its own specialised needs for framework policies and for a governance approach that acknowledges and nourishes agency. Reversing that perception is the primary objective of the remoteFOCUS project.

Transforming present governance approaches presents formidable challenges – and from the outset their scale needs to be recognised. Contextualised approaches may be required. But there can be no contextualised solutions until governance is itself significantly reconfigured. **The governance gap cannot be solved by ad hoc adaptations. To integrate legitimate national and state concerns with local interests, basic structural change is required. The alternative is more of the same.**

⁵ For a sensitive discussion of the complexity of choice in an indigenous context, particularly the tensions between individualist and collectivist patterns, see for example Tim Rowse (2002); also Pearson,

⁶ In a paper on ATSIC, Will Sanders describes its advocacy: in 1993 and again in 1997/98 against the Commonwealth and with the land councils in native title negotiations; in 1994/95 ATSIC attained accredited NGO status at the UN where it presented perspectives other than those of the government; in 1995 it presented a comprehensive reform program; from 2000 it was an active proponent for a treaty. Sanders comments: 'As this increasing independence was emerging, one analyst and ATSIC-insider suggested that this was a strategic mistake; that ATSIC was unnecessarily distancing itself from the executive processes of government where it had an advantage in comparison to other Indigenous organisations...others saw independence as anomalous behaviour...I would argue that ATSIC was obliged to develop its independence from government in order to build credibility and legitimacy with its Indigenous constituency. This was an achievement and strength for ATSIC not a mistake or an anomaly. (Sanders, 2004).

2. The Current State of Remote Australia

Dr Bruce Walker

Since its inception in April 2008, the remoteFOCUS initiative has worked to establish a clear case for the need to approach the governance and administration of remote Australia in a different way. A group of 28 people with extensive experience in dealing with Remote Australia, including senior industry figures, developed the prospectus remoteFOCUS: Revitalising Remote Australia, which was released publicly in September 2009⁷. The Prospectus argued that the situation in Remote Australia was reaching crisis point, that there was evidence of a 'failed state' in the heart of our nation and if this was not addressed there would be dire economic, social, cultural, environmental and security consequences for Australia as a whole.

Remote Australia occupies approximately 85% of the Australian continent.

However, because of the nature of the nation's political system and demographic realities (95% of the nation's population resides in the cities and their rural hinterlands), Remote Australian settlements and their residents are marginal within the Australian polity.

Many Australians view Remote Australia in terms of extremes; as a last frontier, a vast unsettled terrain, a place of Indigenous crisis, or an economic wasteland. To them, it has legitimacy in Australian nationhood only because of the heritage status of the pastoral industry and the major resource development projects which are scattered throughout the remote regions.

It is worth noting the dissonance between this view with that of many Indigenous Australians who see Remote Australia as Country, a place that nourishes and provides meaning and identity. One world view wants to dominate and tame the space while the other lives in and adapts within it. This difference or tension in perception is part of the complex of issues that needs to be addressed and reconciled.

The distorted "extremes" view from closely settled Australia leads to a failure to appreciate the looming social, economic and ecological crisis in Remote Australia that has significant consequences for the nation as a whole.

Remote Australia is inevitably distant – and remote - from the everyday attentions of government. Despite best intentions Remote Australia will not consistently attract the attention of metropolitan-focused governments. Successive and sincere efforts to 'make a difference' have generally failed. It is vital to have an effective and sustainable governance regime for Remote Australia which is not dependent on the intermittent attention of distant and distracted governments.

⁷ Desert Knowledge Australia 2008 *remoteFOCUS: Revitalising Remote Australia. Prospectus*. Version 1.9. Alice Springs.

RemoteFOCUS seeks a serious public discourse about the incapacity of the present structure of government to administer Remote Australia effectively. This must transcend the notion that these problems belong solely to the realm of Indigenous public policy. Remote Australia is not solely an 'Indigenous problem'. Much of the recent public policy debate on Indigenous issues has been focused on addressing the issue of dysfunction within Indigenous settlements. Unfortunately, this debate has ignored the failure of the 'governance of governments' in Indigenous affairs and Remote Australia generally, and the fundamental role that dysfunction and failure has played in contributing to remote community socio-economic disadvantage and under-development.

RemoteFOCUS seeks reform of public policy relating to Remote Australia because government has responsibility to provide an institutional framework that enables civil society and economic and social development. Without reform in this area other reforms and investment will continue to fail.

The present circumstances in Remote Australia have been influenced by the frameworks within which industries such as mining and pastoralism have operated. Conflicts between economic activities and Indigenous interests have helped shape attitudes and structures. In recent years an increasingly constructive engagement between industry and Indigenous interests point to a more collaborative future.⁸ RemoteFOCUS hopes to engage with these interests to assist in promoting reform in the governance, administration and public policy of Remote Australia.

There is a range of views and differing analysis relating to the problems of remote Australia. These include:

- that Government action and intervention is required in remote Australia on the basis of 'market failure'
- that the social crisis in this region of Australia is a consequence of structural issues of underdevelopment and legacies of colonialism that call for non-market based public investment solutions, and
- that neo liberalism and the emphasis on the market economy has fundamentally eroded the sense of community in Australia and driven a growth in individualism and inequality which has exacerbated a neglect of Remote Australia.

It is acknowledged that such views are often strongly contested in the wider community and within sectoral interests but remoteFOCUS believe that despite some ideological differences consensus can (and must) be achieved on the broad thrust of structural reforms required for the economic, social and cultural inclusion of this vast region of the continent within Australian nationhood.

⁸ Natasha Robinson Indigenous rise from boom, The Australian, August 01, 2012 12:00A
<<http://www.theaustralian.com.au/>>

The participants in the first forum held in Perth in April 2008 did not presume to be an expert group prescribing solutions to the evident problems. The purpose of the Prospectus was to enlist the engagement of Indigenous, corporate, civil society, academic and broader community interests in a new and inclusive conversation about the future of Remote Australia; one that would influence governments and the private sector to embark on an agenda for fundamental reform and re-engagement.

The ‘Failed State’ of Remote Australia

In recent years the notion of the ‘failed state’ has figured powerfully in Australia’s foreign affairs and security strategies. Since the late 1990s Australia has demonstrated an increased preparedness to intervene in weak and failing states in our region, taking action under cooperative intervention arrangements involving military and police resources to address law and order and initiate developmental measures aimed at long-term nation building.

It may appear provocatively alarmist to compare Remote Australia to weak states engulfed by poverty, the destabilisation of conflict, and weak political systems that barely function. However, the conclusions of remoteFOCUS support the detailed analysis of Neil Westbury and Michael Dillon in their recent book *Beyond Humbug* published in late 2007⁹. There, the authors make a compelling case that Remote Australia exemplifies the conditions of a ‘failed state’, using four criteria developed by the Brookings Institute in 2006. These criteria are World Bank data that measure poverty, security issues relating to violence and homicide, the capacity of governments to provide basic needs for human development (particularly health and education), and the legitimacy of government in the lives of people.

The failed state of Remote Australia has been given credence by a succession of government reports and inquiries: these include the Northern Territory *Little Children Are Sacred Report*; successive reports on the parlous state of education in remote regions; and the Western Australian State Coroner’s report on the suicide of 22 Indigenous people in the Kimberley region delivered in February 2008, in which Coroner Hope found an appalling lack of governance, little or no coordination between the Federal and Western Australian Governments, and a lack of a system of government accountability to measure outcomes from significant public investment aimed to alleviate Indigenous disadvantage.

Further, a significant shift in demography will emerge over the next decade. While rural settlements in settled Australia are declining in population, many towns in remote regions are growing rapidly because of Indigenous population growth and mobility. Numerous towns throughout Remote Australia that were established to service the mining and pastoral industry are becoming predominantly Indigenous welfare-dependent settlements. This trend is likely to continue with predictable economic and social

⁹ Dillon, M and Westbury, N. 2007. *Beyond humbug: transforming government engagement with indigenous Australia*, Seaview Press, West Lakes.

consequences that will further entrench the 'failed state' status of Remote Australia. This shift has been amplified more recently as the Commonwealth and the States and territories renegotiate bilateral agreements linked to Indigenous policies following the experience of the NT Emergency response.

The impact of the failed state of Remote Australia reaches beyond its Indigenous settlements to affect all residents of remote regions. In addition the consequences will increasingly be felt in the metropolitan towns and cities where the majority of Australians live. Services for homeless people, gaols, state health services, metropolitan hospitals and emergency departments are increasingly impacted upon by the problems in Remote Australia, affecting the lives (and pockets) of metropolitan based Australians.

The Consequences of the Failed State of Remote Australia

The cost of Remote Australia languishing as a failed state is so grave that it potentially constitutes a sovereign risk to the entire Australian nation.

Firstly, there is an escalating cost in public outlays particularly in the health, welfare and other social services, and justice areas. State and Territory government budgets are increasingly feeling the impact of poor health outcomes as greater numbers of Indigenous people occupy scarce (and getting scarcer) hospital beds in the public health system for serious illnesses such as renal failure. Continuing poor education outcomes make effective community governance and development hard to generate and sustain. The increasing focus on law and order intervention and substantial police recruitment to Remote Australia will inevitably lead to a need to expand the immensely costly prison system.

Without a proactive and coherent strategy that addresses Indigenous impoverishment and community breakdown in Remote Australia the demographic trends point to an exponentially increasing cost in public expenditure.

Secondly, as towns throughout Remote Australia feel the impact of the escalating social tension and public and private-sector disengagement, the phenomenon of 'white flight' takes hold (or is perceived to take hold) resulting in a rapid decline of services and social capital. In this situation the economic base in Remote Australia becomes starkly divided between the resource development sector that increasingly relies on fly-in fly-out labour, and the welfare sector that supports the rapidly expanding Indigenous population which is not engaged in the mainstream economy. The difficulties in recruiting and retaining professional staff in the areas of public health, education, justice, local government, management and community development are becoming increasingly apparent. This means that managing the welfare system, already under strain, becomes harder as the need expands proportionately and exponentially. Poor access to health services undermines attempts to attract and retain trained staff to Remote Areas.¹⁰

¹⁰ McKenzie H F 2007, *Attracting and retaining skilled and professional staff in remote locations*, DKCRC Research Report 21, Desert Knowledge Cooperative Research Centre, Alice

Thirdly, the increasing social crisis in (and drift of population from) Remote Australia has disturbing ramifications for Australia's national security. A coherent societal structure throughout Remote Australia, with its networked infrastructure of settlements, roads, airstrips and communication systems, should be supported as an important plank of Australia's defence system in the most vulnerable regions of the nation. Australia's defence against possible threats and breaches of security – including bio-security – emanating from south-east Asia and the south Pacific is made all the more difficult when Remote Australia itself is gripped by social and economic crisis. (The network of settlements and population also provides important support for the ever-increasing number of outback travellers.)

Fourthly, the failure to govern Remote Australia adequately has serious environmental implications. There is no integrated national strategy to manage the lands and fragile ecosystems of Remote Australia that are fundamentally made up of pastoral rangelands, savannahs, deserts, Indigenous titled land and lands dedicated to conservation. Problems such as changed fire management regimes, over-grazed pastoral lands, feral animals such as cane toads, cats, camels and pigs constitute a burgeoning environmental hazard to the Australian nation. The natural resource management regime in Remote Australia is made up of a disconnected patchwork of Federal and State agencies, local governments and some Indigenous organisations with no nationally agreed plan of action to underpin their efforts. The 2006 Australian State of the Environment report commented on the incapacity of local governments and Indigenous organisations to manage publicly-funded natural resource management programs. Of particular concern is the lack of public investment to assist Indigenous interests to sustainably manage the Indigenous land estate that occupies approximately one-fifth of the continent, practically all of it in Remote Australia.

Fifthly, the social crisis in Remote Australia has serious implications for the nation to manage and sustain the prosperity from resource development. The Department of Foreign Affairs and Trade estimates that mining production amounted to \$90 Billion in 2006/07, which was the single biggest contributor to the Australian economy and approximately 65% of Australia's total commodity trade¹¹. Approximately 60% of mining platforms operate in remote Australia¹². The mining industry's capacity to recruit skilled labour to regions of social crisis and depleting services is a serious issue for the long-term sustainability of the mining industry in Remote Australia. In addition, the mining industry is a potential source of significant revenue for Indigenous interests from native title and other agreements. However, in the absence of a regulatory and regional

Springs, available at www.desertknowledgecsrc.com.au/publications/downloads/DKCRC-Report-21-Staff-Attraction-and-Retention.pdf

¹¹ Department of Foreign Affairs and Trade, *About Australia Resources Sector* available at www.dfat.gov.au/facts/resources_sector.html

¹² Geoscience Australia, *Australian Operating Mines Map, 1:10,000,000*, January 2008, available at www.ga.gov.au/image_cache/GA11430.pdf

development framework, and in the context of fragile Indigenous community and regional governance structures, this new source of wealth may add to the crisis in Remote Australia through promoting community conflict and wastage of important community benefits. The Prospectus acknowledges that since the remoteFOCUS forum in Perth, the Federal Minister for Indigenous Affairs has established a reference group with stakeholder expertise to investigate this matter.

Finally, the crisis in Remote Australia has serious implications for Australia's human rights reputation. Then Prime Minister Rudd's announcement in the United Kingdom that there would be an annual report to the Australian Parliament on the national effort to address Indigenous disadvantage highlights the importance in which the Australian Government regards the international perception of the disparity between the economic and social position of Indigenous people and other Australians. With human rights issues becoming increasingly important in the international context, particularly involving China – our major trading partner – Australia is politically vulnerable whilst the living conditions of Indigenous people in Remote Australia remain deplorable.

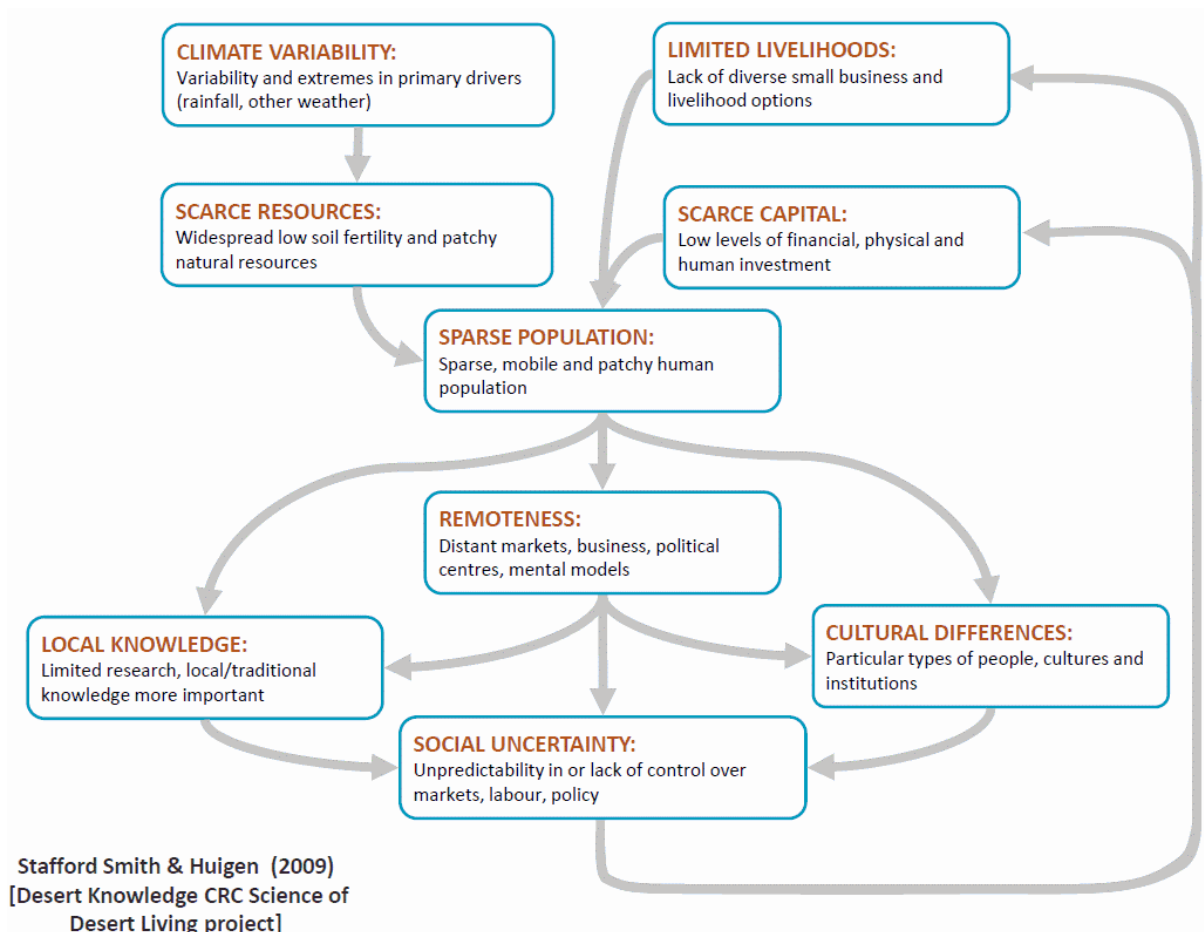
Characteristics of Remote Australia

Remote Australia is distinct from the rest of the country. The following factors create a very different social and economic environment.

- Climate, distance and variability affect livelihood/economic opportunities
- The age, language, cultural demographic is different
- Physical and conceptual distance between people 'on the ground' and those in metropolitan-based offices leads to disengagement and misunderstanding
- Remote Australian organisations are generally smaller and have less capacity
- High cost of living, working and servicing in Remote Australia
- Indigenous culture, society, land ownership and common law rights are a defining and positive characteristic of Remote Australia.

Remote Australia is characterised by a number of interacting and mutually-reinforcing characteristics or drivers¹³ that very significantly affect how the issues confronting remote Australia should (and can) be tackled.

¹³ Simplified and taken from Stafford Smith, M and Cribb, J. (2009). *Dry Times: a Blueprint for a Red Land*. CSIRO Publishing: Melbourne



Unless approaches take into account these interacting remote drivers then failure is almost inevitable. These remote characteristics are:

1. **Unpredictability** – includes climatic and primary production, investment, government attention, commodity prices and market
2. **Scarce resources, investment and livelihood opportunities** – resources spread thinly across vast distances and higher cost structures. Lack of critical mass and livelihood opportunities.
3. **Sparse population** – small numbers, spread across vast land mass, often mobile. Little political and market clout.
4. **Remoteness** – distance from markets and places where decisions are generally made. There exists physical as well as mind-set remoteness.
5. **Local knowledge** – localised knowledge plays a greater role, particularly given regional and local differences. One size does not fit all.
6. **Cultural difference** – remote people and institutions are different.

Understanding the interconnectedness of the elements of this system and working with it, rather than against it, is essential.

However, almost inevitably urban and metropolitan approaches are used. For example, governments and the public service are geared up to satisfy the 95% of the population that lives in settled Australia. Policy simplicity and politics work against treating parts of the country differently.

Their locality and everyday experience cannot help but affect how people making decisions in capital cities respond to Remote Australia. The mismatch between those operating in remote and metropolitan environments actually serves to reinforce the cultural differences and gaps in understanding between people and institutions working in remote Australia and those working in capital cities.

remoteFOCUS argues that the underlying differences in Remote Australia must be taken into account so that new approaches are devised. The alternative is the continuation of endless special measures designed from afar that fail to address the core issues despite well-intentioned policies and sincere convictions to improve conditions in Remote Australia.

Governments as key change agents (and in need of change themselves)

Remote Australia is too often perceived only in the context of the dysfunction of remote Indigenous settlements and seen therefore as purely an 'Indigenous' issue. That is a mistake. In fact, it can be argued that a major proportion of the remote Indigenous disadvantage is derived 'more from their remoteness than from cultural or racial drivers, and need to be tackled primarily as part of a set of remote issues...' ¹⁴ Predominantly non-Aboriginal settlements in remote Australia suffer from the same or similar issues relating to the governance of government.

In addition to the remote syndrome outlined above, there are many external drivers that contribute to the state of affairs in Remote Australia. Some of these are 'global', such as the changing nature and structure of the global economy, or the changing *modus operandi* of extractive industries (eg fly-in fly-out). Other contributors appear more local, but reflect global trends, such as changing settlement patterns in Remote Australia (reflecting ongoing global urbanisation) and changes in significant industries (eg pastoralism).

While acknowledging these broader drivers and factors, remoteFOCUS argues that government policies, structures and administrative arrangements are critically significant drivers of many of the problems that are all too apparent in remote Australia. Strategic and fundamental change to the way governments engage with remote Australia would have disproportionate positive effects if carefully directed to make the most of the unique features of remote Australia.

Therefore, while acknowledging that there are many issues that need to be addressed in remote Australia, the remoteFOCUS initiative focuses on the critical contribution of

¹⁴ *Op cit* p143.

government and government arrangements. Because of the characteristics of remote Australia and long-standing difficulties in governments effectively engaging with Remote Australia and its citizens – Indigenous and non-Indigenous – **positive change in government arrangements will have disproportionate benefits. This is the opportunity.**

remoteFOCUS argues that the ongoing economic, social and environmental issues which bedevil Remote Australia will not be resolved by merely applying the tools available under existing institutional and governance frameworks. Notwithstanding the good intentions of current government policies, funding mechanisms and programs are inadequate or demonstrably failing. Trying harder has proven not to work. There are structural issues and broader institutional factors that need to be brought into the policy and implementation equation. This will require nothing short of a national commitment to drive fundamental practical reform at a range of levels.

Intermittent, on-going special government measures and interventions are proof that the normal processes of government are not working in Remote Australia. COAG trials, Regional Partnership Agreements, Interventions, special redevelopment strategies, such as the Pilbara Revitalisation Plan, are examples of genuine government attempts to make good on failed ordinary government arrangements. But they are inadequate, too often fail or achieve only marginal improvements and prove the point that the underlying arrangements need significant reform so that such interim or special measures are not needed.

3. Conversations with remote Australia

Dr Bruce Walker

The remoteFOCUS project has maintained a dialogue with people of remote Australia since the original gathering in April 2008. Through multiple visits to the Pilbara, Longreach in Central Western Queensland and Central Australia; workshops facilitated by Desert Knowledge Australia over their Regional Video Network, through the Outback Business Network and a special remoteFOCUS workshop at the Garma Festival in Arnhem Land; presentations and workshops to the McDonnell Shire Council; additional community consultation visits supported by BHPBilliton in the Pilbara; and through reference to speeches and writings of people with a long experience in dealing with remote Australians, the project has compiled aspirations and views that are relevant to an informed discussion on governance of governments in remote Australia.

This chapter records the substance of the conversation.

Hale Group Meeting, Perth April 2008

On 1st and 2nd April 2008, a group of 28 people with extensive experience in dealing with Remote Australia, including senior industry figures, met in Perth to consider the looming crisis facing Remote Australia and the apparent failure of Australian governments to adequately govern and engage with the country's vast arid and tropical regions.

The Forum Participants concluded that the situation in Remote Australia had reached crisis point, with clear evidence that there was a 'failed state' at the heart of our nation and, if not addressed, there would be dire economic, social, cultural, environmental and security consequences for Australia as a whole. Many of these are already apparent.

These problems are too often perceived only in the context of the dysfunction of remote Indigenous settlements and seen therefore as purely 'Indigenous' issues rather than issues of government capability. That is a mistake.

There are many drivers that contribute to the parlous state of affairs in Remote Australia. Some of these are 'global', such as the changing nature and structure of the global economy, or the changing *modus operandi* of extractive industries (eg fly-in fly-out). Other contributors appear more local, but reflect global trends, such as changing settlement patterns in Remote Australia (reflecting ongoing global urbanisation) and changes in significant industries (eg pastoralism).

While acknowledging these broader drivers and factors, remoteFOCUS believes that government policies, structures and administrative arrangements are critically significant drivers of many of the problems that are all too apparent in remote Indigenous Australia.

The issues in remote Indigenous settlements are, nevertheless, compelling and real. They include:

- the social implosion and large scale movement of Indigenous people to towns and service centres
- the consequences of demographic change in which the Indigenous population is growing at more than twice the rate of others
- the disengagement of the rapidly enlarging Indigenous permanent population from the mainstream economy and therefore the increased welfare dependency
- the vulnerability of Indigenous governance structures required to cope with the resources boom and the phenomenal streams of new revenue from agreements with resource companies.

All are exacerbated by government disengagement with Remote Australia.

The Forum Participants also concluded that the ongoing economic, social and environmental issues which bedevil Remote Australia will not be resolved by merely applying the tools available under existing institutional and governance frameworks. Notwithstanding good intentions current government policies, funding mechanisms and programs are inadequate or demonstrably failing. There are structural issues and broader institutional factors which need to be brought into the policy equation. This will require nothing short of a national commitment to drive fundamental reform at a range of levels.

Change is needed, to not only benefit Remote Australians but all Australians. For example, there are significant security and environmental issues that affect every Australian. The reality that much of the nation's wealth will come from Remote Australia is only one aspect of this. The fact that the centre of global power is moving towards our region makes Remote Australia a matter of strategic national importance. The Indigenous settlements and pastoral leases of remote Australia are obviously integral to its human element, but it could be argued that apart from that our tenure of Remote Australia under the present regime is largely expeditionary (fly-in fly-out or relatively short term residence) in nature, which means that the vast resources zones could end up being contested, by virtue of the land being considered 'unsettled'. The lack of management of the natural environment compounds the problem by failing to create or sustain a living environment attractive to Indigenous and non Indigenous inhabitants alike. This is why the governance of Remote Australia is a public policy matter that shouldn't be left in the hands of the market and business, as it increasingly is. It requires a paradigm shift in the national strategic philosophy – one that recognises the rate of global strategic change.

The Prospectus produced by this initial group of 28 people was be used to engage a range of interested parties and individuals in public discussion about Remote Australia and how it should be governed and how to include the remote regions into a modern integrated Australian nation. RemoteFOCUS believe there is a compelling case for urgent change. There is a need for new approaches to remote area governance which must embrace genuine participation of those who inhabit Remote Australia in policy, administrative and financial decisions on matters which affect them. This will only happen through the agency of a broad coalition of parties who see their shared interests as far more important

than the sectoral issues that may have divided them in the past; a coalition fully engaged with and connected to the peoples and communities of Remote Australia.

There is a compelling case for urgent change. But are there viable alternatives? remoteFOCUS believes so. The value of structures that devolve responsibility and authority and are accountable has been demonstrated. Policies and administrative arrangements that work in remote contexts and take into account the particular demographic can be developed. This will take commitment, energy, goodwill and the coordinated support of many but offers the alternative of a strong, resilient Remote Australia and a place where its peoples can thrive.

Desert Knowledge Australia Inter-Regional Video Network meeting 41, 12 June 2008

The meeting was held by teleconference linking sites in New South Wales, Northern Territory, South Australia, Queensland and Western Australia, to discuss the Governance and Administration of Remote Australia in response to the prospectus ***remoteFOCUS:revitalising Remote Australia.***

The meeting participants strongly endorsed the critical need for reform, and the timeliness of this initiative.

Some examples which participants indicated highlight the need for reform are:

- Removal of the regional partnerships program without having a strategy to respond to the pending applications
- In the Kimberly there is no infrastructure so people don't want to stay and can't stay. Because the population is low, the government won't invest in infrastructure so the workers continue in the FIFO (fly in fly out) model. If there is no infrastructure, mining on its own won't support people to live there. FIFO = no government investment.
- Lack of response by government to the shortage of teachers in remote areas.
- "Every time there is a change in government they want to make changes, but why are we expected to put our lives on hold whilst the new government gets organised. No one else has the right to step into a job and put everything on hold until they've learned the job."
- Inconsistency re: provision of essential services eg water, and other infrastructure in remote communities
- Perception that regions get attention / reaction from government because of media pressure not for strategic reasons (eg APY lands rather than other remote Aboriginal communities). This response is therefore often reactive and under pressure, and based on limited information
- Perception that remote Australians don't have a voice – the Government only thinks of us when there is a crisis
- Governments tend to view remote regions as a problem in themselves, and policy is made without consultation with local people and local govt, because of this.

- Cost shifting from Commonwealth and state governments to local government
- Housing crisis in many remote regions – access to land for building, access to affordable housing (buyer or renter)
- Housing crisis due to temporary housing needs of people coming in to regional centres like Alice Springs from remote communities.
- Government staff in remote regions and remote areas need to be given resources and delegations to actually do things.
- A huge percentage of people in remote Australia are disengaged from economic development. Regions need government support to build economic resilience not just band aid social issues, eg economists to work with people to decide what sustainable industries could be developed, then look at training for people to do this.
- There needs to be a genuine acceptance of the greater cost of governing and administering remote Australia, and that it is a 'given'.
- The issues around governance and administration of remote Australia are systemic not about political parties / governments / states.
- In building momentum around the issues we are faced with the 'tyranny of democracy' – only 3% of population lives in remote Australia. Government reacts to media and pressure points.
- If a line is drawn from Perth to Brisbane – above line there are a maximum of 11 federal politicians. A key issue is how to build bridgeheads and partnerships into the south eastern corner of Australia – to get people's attention.

Participants were keen to be careful not to portray remote Australia as a 'basket case' noting the magnitude of the issues to be addressed required a proactive and positive engagement with governments.

Remote Australia is part of the solution, not a set of intractable problems. Solutions need to be driven out of remote Australia. Engagement with regions is valuable to governments. It is not just about remote Australia but anywhere with a small population.

Being part of remote Australia it is not a case of 'one size fits all' – each region has its own culture and particular issues.

remoteFOCUS workshop at the Garma Festival, August 12 2008

In partnership with the Yothu Yindi Foundation, Desert Knowledge Australia held a 'remoteFOCUS:revitalising remote Australia' Research Workshop on the morning following conclusion of the Key Forum program of the Garma Festival. The Garma Festival is held annually in the Northern Territory at Gulkula near the township of Nhulunbuy in East Arnhem

One of Australia's foremost cultural exchange events since 1999 it includes a key educational forum to cover issues of relevance to Aboriginal communities.

The remoteFOCUS workshop aimed to identify major research needs for driving institutional and social transformation in remote regions of Australia.

The workshop attracted more than 100 committed and energised Aboriginal and non-Aboriginal participants involved in research and/or who are residents of towns and communities in Remote Australia.

Given the form of Garma and its participants, the workshop discussion and outcomes concentrated on Indigenous issues providing important input into the overall engagement and consultation processes of the remoteFOCUS initiative. Of significance was the considerable convergence of matters raised in the workshop to address and endorse issues identified in the Prospectus.

Recurrent themes

- to utilise local knowledge, authority and responsibility for local solutions
- to utilise partnerships and adopt programs that work across government agencies
- to recognise diversity in culture, leadership and development among communities and build specific programs appropriate to those conditions

Big ideas for research

1. how to reflect local governance in legal structures,
2. the barriers and support mechanisms that maintain the existing mentality in federal, state and local government,
3. data from pilot projects and how to engineer their implementation,
4. decision making processes with emphasis on building the participation of youth,
5. the many systems of Indigenous governance,
6. a framework for citizenship rights, and
7. the “Anthropology” of bureaucracies and how they respond to Remote Australia.

Alternatives to Research Activities

1. Build cross-cultural competencies to enable Indigenous and non-Indigenous people to understand how their respective programs, policies, philosophies and organisational cultures impact on one another.
2. Build participatory research and strategic approaches for using on the ground knowledge.
3. Instead of the conventional western linear–single endpoint approaches consider an Indigenous interactive model where outcomes are distributed throughout the project and opportunities can be examined as they emerge.

Governance Processes

1. Involve Indigenous representatives in government decision making and engagement of remote communities in the broader national debates.
2. Strengthen horizontal (inter-sectoral) accountabilities of governments including polycentric networked governance across state/territory borders.
3. Restructure government to establish a single, central body that enables an inter-sectoral, single point of contact process for planning, support and funding for communities.
4. Build greater risk-taking with less bureaucracy and control in government management of grant programs.
5. Instead of a conventional western hierarchical model (with knowledge only at the apex) consider an encapsulating model with pieces of knowledge from all organisational members leading to ideas and ownership to make the change work – ideas become the leaders.

Partnerships

1. Strengthen commitment to partnerships and locally-based community-driven planning with collaborative management and learning cycles to ensure communities are being heard and Government can respond in relation to:
 - local models to evaluate local outcomes and goals to inform funding
 - local level partnerships with Indigenous and non-Indigenous Australians
 - local autonomy and authority
2. Build private sector and philanthropic relationships with remote Australia while recognising governments as fundamental to the broad support structures.
3. Recognise capacity development/building as a key role of governments and corporations to help people do things for themselves.

Support Processes

1. Build on successes and don't focus on failures or on gaps.
2. Provide infrastructure to support programs in communities in addition to salary funding.
3. Recognise that the diversity in cultures, community leadership and autonomies demands diversity in approaches to meet individual community needs.

Funding

1. Build greater continuity of government involvement and explore processes to pass programs forward from year to year.
2. Expand block funding of projects and simplify reporting structures.

Communication

1. Simplify the language used by governments and bureaucracies and use interpreters where appropriate to enhance two way communication.
2. Establish a website map linking remote Australia to share successes and experiences of what works.

Desert Knowledge Symposium remote FOCUS Workshop, November 2010

Drawing on the Prospectus and the dialogue with remote Australians over the previous two years a workshop was convened in conjunction with the Desert Knowledge Symposium in 2010. A large diverse group of community people and public servants from across remote Australia gathered to develop and refine a set of principles that they believed would improve the governance of government across remote Australia.

In total eight principles were developed.

Reform Principle 1: Local Planning, Budget development and Control

In remote Australia, people and institutions are often disempowered by what they see as institutional indifference. People feel they are located at the end of a long process or supply chain for services provided by government. Services delivered often do not meet local needs or reflect local circumstances. Inevitably they are 'siloed' leading to a lack of coordination between services. Critically, these arrangements work against people taking responsibility.

The particular conditions and drivers in remote Australia reinforce this dynamic and have undermined genuine attempts to develop localised responses and institutions. Because of the siloed nature of funding, small local populations have difficulty supporting the complex governance and consultation structures required to receive services from, or contract service to, government departments. Small communities almost inevitably experience governance and consultation fatigue. Critical mass and governance stability is difficult to achieve¹⁵ and this further undermines confidence that local communities can and should have more input and control.

Service delivery designed in remote capital cities and driven by national priorities and guidelines fails to deliver the outcomes needed in Remote Australia. A new radical approach that takes into account the realities of remote community conditions and populations, and addresses the key drivers of past failures, is needed and which builds significantly higher levels of local participation in and control of services in Remote Australian communities. International and Australian experience shows that small

¹⁵ Some communities have succeeded in achieving critical mass and coordinated, focussed and stable governance through creative governance structuring (Ngaanyatjarra Council is an example). But this is not the norm.

Indigenous community outcomes, for example, are significantly improved if there is local planning, control and governance of services.

This reform aims to enable and empower local communities to consider their needs as a whole, develop plans and strategies that meet their local circumstances within agreed parameters, and negotiate overall funding levels and performance indicators with governments. They would then purchase services and be held accountable for outcomes.

In budget negotiations, agreement could be reached to switch funds within the agreed total between different functions to better match local priorities and improve overall effectiveness. Communities/regions would then be expected to spend money within the agreed budget.

Critically, this reform would reduce the governance and compliance overheads for communities so that they can concentrate on achieving outcomes, rather than being overwhelmed by the demands of multiple accountabilities from multiple government departments.

The impact of this reform would be considerable, especially if coupled with the other reform principles in this package. By localising responses services will better meet the needs and aspirations of citizens. By building local critical mass through aggregation of resources and concentration of governance, local ownership of issues and outcomes will grow, and local communities will build the capacity to engage more effectively with governments, inform government policy development and shape its approach to Remote Australia. The level of variability and uncertainty at a local level would be reduced considerably, helping to create the stability necessary to attract investment, as well as high quality staff.

Reform Principle 2: Focused, Flexible and Sustainable Funding for Remote Australia

At present total funding, funding criteria and rules relating to delivery and acquittal are centrally determined with little opportunity for local variation and for cross program coordination and integration. This one-size fits all approach inhibits capacity to shape and deliver policy that meets the diverse circumstances across Remote Australia, as well as limiting capacity for cross-agency integration. The rules and focus of programs and funding streams designed to meet the needs of the 95% of the Australian population that do not live in Remote Australia are too often not appropriate to the remote context. Further, funding cycles of typically only one year have very significant negative consequences, including inability to attract and retain appropriate staff to remote locations.¹⁶

¹⁶ Northern Territory Coordinator General for Remote Services Report, May to November 2009 (p22) and recommendations 6.1.1 and 6.1.2.

Successful delivery of services in remote Australia which can significantly impact on local communities requires the combination of central and local knowledge, the funding flexibility to apply resources most effectively, and a responsive funding cycle. Small populations and the general lack of local organisational critical mass means poor performance in the acquittal of multiple grants also undermines impact.

There is an urgent need to:

1. simplify and focus funding streams
2. increase flexibility,
3. reduce compliance overheads, and
4. extend funding cycles to three to five years.

To achieve maximum impact will require enabling legislative reform at a legal framework and government finance (fiscal) level. Frameworks need to be established to make it clear that policy and delivery can be adjusted to reflect local circumstances, and that allows adjustment of the program criteria and rules relating to delivery in light of local knowledge, advice and circumstance.

Centrally-devised policy would set out desired outcomes, the available budget and enable resources to be managed flexibly and in cooperation with local and regional communities/institutions to achieve objectives consistent with central policy. Accountability to the parliaments would be for the total amount spent and for the outcomes consistent with policy objectives rather than for process compliance.

This is a radical departure from the present complex, centrally-driven and inflexible arrangements and would reduce the present variability and uncertainty in funding flows, and encourage long-term investment, improved capital flows, better outcomes and services that are tailored to local situations, development of local and government capacity and partnerships.

Reform Principle 3: Strategic Commonwealth Investment in Remote Australia

Commonwealth funding streams to states and territories that are supposed to take into account the 'disability factors' of remote circumstances and demographic profiles do not fully take account the realities and costs and circumstances in Remote Australia.

Most importantly, there is no guarantee that these funds are applied to Remote Australia. For example, although State and Territories receive additional funds because of remoteness and Indigenous factors, there is no current obligation to use those funds to reduce the service gaps in remote areas and in Indigenous communities. As a result these areas remain neglected.

This means that there is under-investment and under-resourcing of government-funded services in Remote Australia, with subsequent poor service delivery outcomes and inadequate infrastructure. This contributes to a less-than-attractive investment and living environment in Remote Australian, perpetuation of some of its persistent problems and loss of significant social and economic opportunities.

At present the Commonwealth Grants Commission and the Local Government Grants Commission use formula-based processes to calculate grants to that take into account demographic and other characteristics so that funding reflects the costs of delivering government services. However actual expenditure by relevant States and Territories is often not consistent with either present disability factors used in the formulae or the real disability factors. States and territories are not obliged to expend these additional funds in a way that relates to the disability factors.

Not only must disability factors and cost differentials be reviewed so that the funding quantum is appropriate, but also new procedures must be introduced to ensure that actual expenditure by the States and Territories in Remote Australia is consistent with the actual disability factors and real cost differentials.

If implemented this reform would lead to more transparent funding streams, improved investment and resourcing to Remote Australia. It would reduce the need for irregular and reactive injections of government funding to address gaps that emerge or become politically apparent. This would reduce variability and uncertainty, supporting more sustainable social and technical infrastructure in remote settlements and helping to attract much-needed private investment.

Greater opportunities for innovation at the local level would emerge. Adequate funding to underpin other reforms would be available.

Reform Principle 4: Sustained Long Term Investment in Local Communities and Institutions (Civil Society)

At present Remote Australia is characterised by inadequate institutional capacity and governance arrangements that significantly undermine efforts to improve outcomes, deliver meaningful services and improve underlying conditions. Local communities, regions and institutions too often struggle to effectively engage with governments and with the issues that government is trying to tackle. Governments, likewise, too often do not have the capacity, capability, perspective or governance arrangements to effectively engage with the issues and with local communities and institutions.

Recognition of the importance of effective institutions at local level and their critical role in social and economic development is too often missing. Institutional incapacity and indifference to opportunities for change compounds the problem.

The characteristics and drivers of remote Australia – lack of critical mass, under-investment, high staff turnover, remoteness from decision-making and so on – significantly contribute to this profound shortcoming in remote communities, regions and institutions. An over-reliance on imposed executive solutions made without regard to the essential need for civil and community engagement also undermines good governance and

institutional development. Overall, this leads to a misalignment between policy and practice in services, disconnection with local aspirations and needs, and fragmentation of effort.

Improved capacity and governance of both remote institutions and governments is needed for meaningful and productive engagement improved outcomes. This calls for Federal, State and Territory Government and private sector commitment, including resources, to support specific programs and reforms designed to:

- Approach policy development and implementation within realistic timeframes that ensures genuine community engagement and the necessary capacity-building to achieve it.
- Promote improved engagement and trust between local communities, regions and government agencies (through, for example, neutral agreement brokers).
- Recognise the importance of and support the development of individual, community and institutional capacity to effectively engage inter-culturally (bi-culturally).
- Effective expression of local voice and local choice in government decision-making and in the implementation of programs at the local level.

This reform addresses the need to invest in (and coordinate) building the effective institutional capacity of governments and local communities and regions to effect sustainable governance arrangements in Remote Australia.

This will enable communities in Remote Australia working in improved partnership with governments, where appropriate, to:

- Build and sustain effective institutions of decision making and accountability
- Better identify and seize opportunities for investment
- Allocate and appropriate resources
- Organise and deliver outcomes
- Engage with business, non-profit organisations and governments
- Access and develop required individual skills and abilities in a timely way
- Enhance policy development, implementation and evaluation

This will enable governments to:

- More effectively and efficiently meet their obligations to their citizens
- Deliver government services more effectively
- Develop policy and program frameworks appropriate to remote Australia
- More effectively work with local communities, regions and institutions to achieve policy goals.

The principle will contribute to long-term social and economic stability in Remote Australia based on continuity, capacity and reliability in governance and improved partnerships.

Reform Principle 5: Ensuring Continuity and Effectiveness of Public Servants Servicing Remote Australia

Remote Australia suffers from a continual high rate of turnover of public servants with little accumulated knowledge being retained, low officer accountability for achieving tangible outcomes, limited incentives in remote Australia for 'seeing through' particular specific initiatives, and a related absence of defined and rewarding career paths.

The result is a fragmented and inconsistent interface between governments and remote citizens and institutions, additional costs to both governments and remote institutions, significant opportunity costs because of 'gear up' and lost time, and high levels of frustration that erode the development of positive working relationships.

The remoteness of Canberra and the State and Territory capitals from day-to-day realities on the ground significantly contributes to the disconnect between policy and implementation. 'Closing the implementation gap' is needed but this will not be achieved without significant reform of the Public Service.

Too many public servants are being required to undertake complex tasks when they do not have the knowledge or the technical skills and experience to be able to prosecute these tasks effectively or to assess the advice provided to them by experts. On the other hand, capable, experienced and effective public servants are often classified as being 'captured' by local interests and their policy and program advice and experience trivialised. This reflects the dominant culture of the public sector that too often places process and compliance above the importance of effective service delivery.

Public servants in Remote Australia in implementation or brokerage roles require a judicious mix of functional authority together with flexibility and accountability. They need functional authority and flexibility to make decisions in responding to local needs and circumstances. And they need to be held accountable in securing locally-required outcomes and National, State and Territory government policy requirements (i.e. both downward and upward accountability).

This requires that:

- Specific selection criteria, relevant training, mentoring support on the job, and career paths and rewards are established and maintained.
- Technical best-practice and specialist knowledge in remote issues (legal, demographic, political, governance, cultural, anthropological, institutional, fiscal, communication and technological) are sourced and encouraged.
- Professional recognition is provided for remote specialists, including field and community development expertise, to ensure that senior position(s) are created which serve to recognise remote experience that is directly related to a track record of achievement.

This reform would lead to the attraction and retention of high-quality professionals to work as public servants in and with Remote Australia. It would help decrease the uncertainty and variability in the relationship between governments and their citizens and partner organisation in Remote Australia, which would offer a more stable foundation upon which to build effective working relationships and help reduce the 'implementation gap'.

Reform would assist in improving the conceptual understanding by public servants of the remoteness of Canberra and the other jurisdiction capital cities from day-to-day realities on the ground in Remote Australia and would therefore assist in the development of policies for Remote Australia that have a higher likelihood of success.

In addition, specific reforms to provide enabling authority to public servants 'on the ground' in Remote Australia would significantly improve capacity of governments in working with local communities and institutions to develop local solutions and approaches to intransigent problems.

Reform Proposal 6: Closing the Gap between Intentions and Outcomes

Governments contract remote and other institutions to deliver services in remote Australia. The transparency and accountability of the contracting process and the relationship between the service purchaser and the provider plays a significant role in the ongoing difficulties in achieving effective service delivery and development of realistic and effective programs that address local needs and conditions. It also skews data and policy development.

For example, there is too commonly a culture where individuals and agencies are encouraged by 'the system' to sign up for funding on the basis of commitments which they know cannot be met and they understand will not be expected to meet. In addition, there are pressures placed on individuals within organisations to report actions as if they meet program objectives, when they often do not.

The ever-changing policy environment and continuing change in language and nomenclature within program funding and contracting arrangements impedes the ability of all people involved in services to work in a concerted way towards long-term goals.

At the same time there is insufficient obligation for program managers to take responsibility for the performance of programs beyond administrative and financial measures. There is an urgent need to change the accountability arrangements so that reporting is reflective of real objectives and outcomes. This should include proper evaluation of the performance of programs against their objectives rather than mere financial and administrative audit.

Contract management requires reform to ensure that scrutiny and auditing is tightened and these realistic and agreed to commitments are met. This scrutiny should be embedded within the contracts, and also embedded within the public service accountability framework.

Reporting systems need to be improved and streamlined and be more transparent so that real data and critical analysis can help address local issues and capacity gaps, and support planning and policy development. For this to be successful, greater encouragement and protection of providers of 'bad news' or empirical detail about real happenings is needed. This will steer processes towards increasing learning through evaluation.

Government agency accountability frameworks also need reconsideration and mechanisms put in place to audit government performance, especially through monitoring and evaluation frameworks that are adaptable to local conditions and enable corrective action and learning for government agencies and service users.

Reform would significantly reduce the disconnect between intention or stated targets and the reality of actual service delivery and program outcomes. It would build a more realistic picture of needs and gaps, build higher levels of certainty, stabilise resourcing (because of more realistic and less reactive responses), which would help attract and retain good staff to remote Australia. This would, in turn, support good decision-making capability locally and by remote governments because of better and more realistic data and reporting.

This reform would see improved partnerships between governments and remote institutions, adding significant potential to address long-standing issues in a less reactive and more cooperative way.

Reform Principle 7: A National Social and Economic Strategy for Remote Australia

There is no strategy, no considered development framework and despite many successive attempts, little coordination amongst the tiers of government, the various jurisdictions or the people and communities that make up Remote Australia. Current approaches are universally *ad hoc* and non-systemic. As a result:

- There is no sense of the future that might guide and inspire Indigenous and non-Indigenous Australians to have the confidence and certainty to make commitments to living and investing in Remote Australia (increased uncertainty, reduced investment and access to resources)
- The positive potential of Remote Australia is unrealised (opportunity cost)
- There are unrealised linkages and synergies, and too much duplication (reduced investment and resources due to waste). There is no framework to guide and inspire a cogent consideration and development of Indigenous futures and how these interact with the rest of the community, the nation and the global economy (increased uncertainty).
- There are ongoing reactive and costly interventions to address crises, and a need for special measures to address long-term neglect (increased unpredictability).

An integrated, careful and considered long-term settlement and population plan, implementation and investment strategy, and monitoring process is urgently required. The alternative is 'adhocracy', and continuing failure.

The strategy proposed here would recognise the unique nature of Remote Australia, its vital contribution to the national economy and identity and its strategic location. Most importantly it could be joined up with the various jurisdictional planning frameworks so that it is properly integrated. The plan would bring governments, communities, and remote institutions together to craft a common future.

The strategy would provide greater certainty to Remote Australia, and a mechanism to resolve key questions about its future. For example, the pattern of settlement across such a vast region that is needed to provide safety, security and appropriate levels of services has yet to be clarified and planned for. The proposal would help meet the challenge of stewardship across Remote Australia, and help drive orderly and effective governance and administration.

Not only would a strategy for Remote Australia provide vision, focus, and targets, it would also put in place a mechanism to connect and coordinate various government efforts with the aspirations of the people and settlements of Remote Australia.

This will only be achieved by the development and implementation of a long-term strategy that guides governance and investment in the Remote Australian economy and people.

Reform Principle 8: A Commission for Outback/Remote Australia

Both policy development and administration for Remote Australia is largely determined within State and Territory borders. As a result there is a fragmented approach. Major decisions affecting Outback Australia are almost entirely made in capital and regional centres on the coast, with little understanding of its key drivers and its unique setting. Instead, strategic and context-specific action is required to achieve positive outcomes.

Historically this situation has been challenging for capital city-based decision-makers and investors, resulting in:

- *ad hoc*, non-systemic and reactive approaches
- unacceptable levels of service delivery and citizen outcomes
- lack of consistency of approach (increased uncertainty, reduced investment and resources).
- Unrealised linkages and synergies, and too much duplication (reduced investment and resources due to waste. Poor results).
- No region-wide coordination and planning, and no region-wide (and often little local) sense of direction (increased uncertainty)
- A disconnect and distrust between people and institutions in Remote Australia and their counterparts in the capital cities (increased uncertainty, reduced investment and resources)
- On-going reactive and costly interventions imposed on Remote Australia to address crises, and the on-going need for special measures to address long-term neglect (increased unpredictability, reduced investment and resources, waste).

There is a critical need for an on-going institution that has the mandate and authority to create a sustainable focus on Remote Australia, change the dynamic of under-development that afflicts the region, and achieve momentum for change and regional coordination that is specific to Remote Australia.

The Commission for Outback Australia would be charged to develop and coordinate a focus on Remote Australia and communicate the narrative to create a national understanding of Remote Australia's critical role in the national interest. It would provide a pathway to create a strategic and less reactive approach to Remote Australia, and bring governments, communities, and business together for common purpose.

The Commission for Outback Australia would analyse and advocate for change in and for Remote Australia. The Commission will play a central role of stewardship of resources to ensure security, safety, services and futures across Remote Australia in the national interest. The Commission could be charged with coordinating the development of a national strategy plan for Remote Australia, assisting in its implementation, and be charged with monitoring its progress.

Its legitimacy with stakeholders and the wider policy-making community will enable the Commission to be a medium to bring together government agencies, business and community to invest wisely in the Remote Australia.

Remote Australia is characterised by significant connections to the global economy, a business sector and associated enterprises that service both the global economy and disadvantaged communities. The Outback Commission would promote opportunities arising from an intimate understanding of its fragile economic system in order to attract investment.

A strong voice for Remote Australia and an effective means to coordinate development and government activity would provide a more stable investment and work environment that would generate livelihood opportunities. Effective planning and coordination would reduce duplication and improve return on investment, and close the misalignment between capital-city-based and Remote institutions.

Positive results would be hampered, however, if the Commission for Outback Australia is not correctly positioned and authorised within the national context. Inadequate resourcing, an inappropriate governance structure, poor articulation into the national and government agenda, poor grounding into and representation of remote Australia, could all significantly undermine the impact of this reform.

Recent Statements about Regional Australia

Federal Minister for Regional Australia, Regional Development and Local Government, Simon Crean

During the course of the remoteFOCUS project there were significant political developments Federally (the formation of a portfolio titled Regional Australia) and in Western Australia (Royalties for Regions) wherein the 'regions' assumed a greater priority in the eyes of government.

In his address to the National Press Club in September 2010, the Federal Minister for Regional Australia, Regional Development and Local Government, Simon Crean, outlined a number of principles that apply also to remote Australia:

Local empowerment is about recognising that in our federalist structure, the needs and aspiration of our people can best be met by allowing decision making about their economic, social and environmental wellbeing to be made closer and closer to the people most affected by those decisions...

There are three considerations that guide my vision of a better future for regional Australia.

- We need to ensure that economic growth and sustainable development is the driving influence in all regions of the nation.
- We are required to operate within a Federal structure that gives expression to the hopes and aspirations of all Australians
 - noting of course that our Federal system only recognises two tiers of government, yet depends on three levels of government for service delivery.
- And third, I hold firm to an inherent belief that the best way to balance the economics, the politics and the geography of diversity and sustainability is to understand the importance of local engagement – to more effectively empower local communities. Local communities deserve to have their voices heard at all levels of government...We want communities to be able to take responsibility for charting their economic, social, and environmental wellbeing and devise a way forward that stacks up against sound socio-economic principles.

We need to view regional development through the lens of economic, social, and environmental development.

The Minister's emphasis in his speech links the central principle of local engagement closely with diverse and sustainable social and environmental, not just economic, development.

The Government, and myself as Regional Australia Minister, are committed to strengthening the network of 55 RDAs that cover the whole country..... I want the RDAs to join the dots.... to go beyond thinking about a single Government portfolio, it needs to be cross portfolio, cross governments but also through engaging with the private sector and NGOs.

The role of RDAs should be seen as one that complements the work of Local Government. RDAs are there to perform a strategic role - one that is rooted in strong engagement with Local Government, Regional Organisations of Councils and other stakeholders. RDAs are there as facilitators, mentors and brokers on regional development.

RDAs are built around the connection of people with a vision for their region. As such, the RDAs have the ability to reflect the heartbeat of regional Australia as they include people who are passionate about their communities and have a vision to support development in their region.

Insights from a former Australian Public Service Head of Transport and Regional issues.

Dr Ken Matthews AO served the Australian Public Service across 5 portfolios over a 36 year period working on issues in agriculture, mining, environment, natural resources management, water, regional services and regional infrastructure; regional Australia was a unifying theme for his career and he read the pulse of regional Australians for a considerable period of time.

Upon his retirement from the APS in his valedictory address he outlined issues that had observed in his ongoing dialogue with people of regional and remote Australia.

Regional Australia is a much bigger policy and delivery challenge for the Australian Public Service than most public servants so far realise. We joke that Sydney differs from Melbourne. But compared to metropolitan Australia, our regions have so much more variation and usually, so much less resilience. When a job is lost, or an industry folds in a regional community the options are much more limited than in the cities - and the human and community consequences greater.

The challenge for public administrators is therefore more than simply to introduce one parallel 'regional' policy to complement our traditional metropolitan-oriented policies. Many of our policies and programs will have to be comprehensively regionalised and localised - to multiple regions and localities. How well equipped is the APS to understand multiple regional perspectives when we have grown up with a much more homogeneous metropolitan world view? How will the public service gain an accurate understanding of the needs, aspirations and opportunities of the many different regions of Australia?

Matthews raises his concern that the APS no longer have independent channels that enable them to 'keep their ears to the ground' in regional Australia and he questions whether the APS will be able to adjust their usual analytical tools to accommodate regional policy requirements.

For example in most cases, a dollar spent on a metropolitan ring road carrying tens of thousands of cars a day will be found to be a dollar better spent than on a lonely country road. In the future, the APS will need more sophisticated project selection methodologies to capture the non-monetary, community and externality values of the rural road. There is more to this than just political judgement by ministers.

He goes on to consider the next set of challenges that will confront the APS given the 'new paradigm' of priority for regional Australia.

Like metropolitan Australians, regional Australians over the next decade will be looking for more accessible agencies – on screen, on phone and in home. Like

metropolitan Australians they will increasingly expect more timely services and correspondence. Timeframes for email are so different from 200 years of snail mail and the public service cannot afford to be the last national institution to be responding in snail mail timeframes. Like metropolitan Australians regional Australians will expect more personalised and tailored public services. They will want to know by name their contact officers in the APS and will be impatient with agencies' constant re-organisations and staff changes. They will also be impatient with apparently artificial functional separations between different agencies, and for that matter, different levels of government. Governments will have to organise themselves to be more unified externally and 'keep the spaghetti behind the counter.'

However unlike metropolitan Australians, regional Australians will more than ever be expecting Government services to be localised and spatially delivered. They will want their services to be tuned to their particular communities and their regions. On the one hand they will expect to be able to participate in decisions about their regions. On the other they will sometimes startle the city-based Australian Public Service by exhibiting consultation fatigue (because so often in smaller communities it is the same people who must front all the consultation processes). They will be looking for governance arrangements that maximise decision making and accountability in the local area - where they are comfortable - not back in Canberra where we are comfortable. The Public Service will also need to be ready for a certain amount of pent-up frustration in regional communities.

In a frank moment that is often only possible in a valedictory address he reflects on internal APS workings.

First, is it inevitable that the APS must forever be in a state of structural and staffing change? Must there so often be a new face every time a client or stakeholder rings? We know it drives our stakeholders mad. We know it introduces management risk. We know it adds confusion, costs and time. We know it makes the Service look inexperienced and shallow. We know these things, but we seem to accept restructurings and personnel changes as unavoidable features of the public service.

Matthews is very proud of the uniquely Australian model of public administration as a great, continuing national institution – but one which at the same time is responsive and ready to change – that is, a willingness to continue to adapt to Australian circumstances and national needs. However he notes that the Australian community wants a model that works for them in their current circumstances.

The model will and should continue to change. The case for necessary further public administration reform can be built around the uniquely Australian policy challenges ahead as we continue to adapt to Australia's own future.

Australia may be a big continent but it is a small nation, governed from a small city.

Propositions about remote Australia

In our consultations across remote Australia communities have consistently expressed five expectations about what they want in good governance. They want:

1. a say in decisions that affect them;
2. equitable and sustainable financial flows;
3. better services and a locally responsive public service;
4. local control and accountability where possible; and
5. inclusion in the greater Australian narrative.

In response to these claims and the research undertaken through commissioned studies, remoteFOCUS advances five propositions.

First, remote Australia confronts extraordinarily diverse and complex local challenges. Nonetheless there are common issues, and these issues are globally familiar: they are common to regions where people reside remote from centres of economic and political power but are facing rapid social and economic change.

Second, while it is important to recognise the limited influence that simply improving public policy can have on aspects of these issues, present governance arrangements make it more difficult to effectively and legitimately respond to the circumstances that are emerging in remote Australia.

Third, among the range of possible responses to these governance challenges, the more promising prospects involve greater degrees—and varying patterns—of decentralised governance and community engagement.

Fourth, while the present dispensation of national and state/territory politics has prompted a high degree of attention to remote Australia, normal representative politics are unlikely to result in the structural reforms needed to address these issues since the structures themselves are geared to the 95% of the population living in more settled areas. Special purpose initiatives will be required, and these will need cross-party political commitment and support from business, professional and community organisations.

Fifth, in the absence of a narrative that confirms the national interest in remote Australia, nothing is going to change.

4. A Framework for understanding the conversation with remote Australia.

Dr Bruce Walker

We have claimed the problems are not specific to Aboriginal people and their settlements, however a significant part of the remoteFOCUS report examines Aboriginal matters. Apart from the recent Pilbara Cities initiative and the Royalties for Regions policy in WA and the emerging North Australia agenda (reactive rather than proactive responses) the only broad ranging remote Australia policy is targeted almost specifically towards Aboriginal matters.

We have advanced several propositions that suggest that development of both Aboriginal affairs policy and remote Australia policy on this basis will not provide sustainable outcomes for people of remote Australia. However in the absence of more comprehensive policy pertaining to remote Australia as a whole, (beyond the ephemeral debates around the resource sector, coal seam gas, FIFO and dying towns etc.) we have spent a considerable amount of the report examining the impact of our findings within the Aboriginal policy space.

In order to understand the difficulty government faces in governing remote Australia we are forced to focus on governments track record in delivery of Aboriginal services and from there to derive general principles that impact the whole of remote Australia.

Commissioned Research

Professor Ian Marsh was commissioned to provide further investigate five areas pertinent to and arising from our community conversations.

1. What have been the changes to how governments and public servants function as a result of Globalisation and Centralisation of governance?
2. What have been the implications for better services and sustainable funding of those services that can be drawn from an examination of the mainstreaming of services to Aboriginal people in remote Australia?
3. What have been the structural barriers confronted in attempting to respond to Aboriginal issues through strategic whole of government approaches?
4. How have other countries with similar governance traditions attempted to give agency, voice, local control and accountability to people living in marginal or peripheral places and what trends or changes have occurred particularly the trend to Place centred governance and regional innovation systems?
5. How might the strategic challenges for remote Australia be reframed?

The five inter-dependent but free-standing papers which follow provide evidence to stimulate innovative reappraisal of the issues raised throughout the national conversation. In summary the following chapters survey:

- **Chapter 5:** The development of and rationale for governmental centralisation in Australia and its modification via joined-up designs to address 'wicked' problems and localised issues;
- **Chapter 6:** The development of a succession of policy frameworks for Indigenous Australians – 'self development' followed by mainstreaming, 'practical reconciliation' and 'whole-of-government'
- **Chapter 7:** The failure of 'whole-of-government' processes to realise promised outcomes and the structural obstacles which are the root cause of this outcome;
- **Chapter 8:** Contemporary international experience with parallel and analogous governance challenges
- **Chapter 9:** The gross inadequacies in the broader strategic framework within which policy is devised and implemented;

In general, the changes in governance that have occurred since 1983 were enacted in the name of a more responsive and effective state. Power was centralised and top-down authority strengthened. To enhance local responsiveness, whole-of-government amendments were subsequently introduced. Moreover, government has devolved employment creation to markets - an approach which works where appropriate economic infrastructure exists, but not where it is absent.

In the case of Indigenous policy, this has created a pattern of public administration that is structurally incompatible with local voice and representation. Underlying centralised practices are too embedded and they have thwarted joined-up efforts. Moreover, the strategic framework has also demonstrably failed. In the face of a complex policy design and adaptation challenge, few of the relevant narratives have been adequately aired and contextual needs have been insufficiently recognised. Present strategic platforms have not mediated a conversation that is appropriately rich, wide ranging and appropriately responsive to emerging issues and developments.

So what is to be done?

The survey of emerging international practice in the fourth paper shows how thinking is developing in other states that are faced with analogous issues. The direction of change is clear – there is an increasing move to more place based arrangements. This is consonant with the espoused concerns of Australian governments at state and federal levels and of the representative organisations that provide voice for citizens in rural and remote locations. However as the joined-up efforts illustrate (Chapter 7), place based approaches are at odds with deeply embedded centralising processes and protocols covering policy development, organisational and managerial structures, fiscal and budgetary arrangements and political and prudential accountability. Yet comprehensive British

analysis of public spending on particular categories indicates the gains to be had from more systematic and contextualised approaches (Chapter 8, on page 99).

The essence of a place based approach lies in the necessity of shaping administrative and other structures to the imperatives of local contextual imperatives. In addition, first place must be given to the creation of viable livelihoods. **A place-based approach should start with a focus on economic opportunity at the relevant level.** This will clearly vary by region – for example, there is potential for a wide ranging service and hybrid economy in the Pilbara; in central Australia carbon farming may present new opportunities along with a host of hybrid activities; in remote Queensland, the pastoral industry remains strong with coal seam gas a new and more problematic possibility. In a place based approach, local opportunities, contexts and circumstances are prioritised – naturally in conjunction with wider interests and concerns. The challenge is one of appropriate design. There is no one-size-fits-all solution.

So is there an approach that would meet this design challenge?

The OECD has developed a diagnostic framework, which systematically covers the relevant dimensions of governance and which is intended to identify the requirements for effective place based operations (Chairbit, 2011 a and b; see also Tables 1 and 2, Chapter 8, on page 99). The seven dimensions that constitute all aspects of governance are: information; capacity; funding; policy; administration; objectives; accountability.

This diagnostic is summarised in a 'Mind the Gaps' Table (Chapter 8, 99) along with illustrations of the approaches introduced by various government to bridge these gaps (Chapter 8, Table 2, 99). Nor is it necessary to look only internationally for relevant approaches. In a comprehensive report, Dollery and Johnson (2007) describe RAPAD, the coordinating structure at regional level that has been established by councils in western Queensland, and the imaginative array of solutions that have been developed to sustain services to local communities. They also describe a diversity of possible joined-up models, with particular arrangements dependent on local needs and circumstances. These instructive findings are also summarised in Chapter 8(on page 99).

In considering sensible governance for remote Australia, a threshold issue concerns the appropriateness of present regional boundaries and existing institutions. A detailed analysis of the requirements in each region in the context of each governance dimension is needed.

New arrangements for regional governance would also need to be supported by a suite of inter-governmental concordats, budgeting, accountability and HR policy approaches. These would need to:

- Create a forum to link federal and state activity in an appropriate way (perhaps by contract or concordat). A pilot or experimental scheme might be one way to explore possibilities
- Ensure Commonwealth and state funding allocations are consistent with disability factors and real cost differentials and that money reaches the intended purposes

- Establish a remote Australia public service - one that perhaps creates a cross governmental/cross-agency career framework and/ enhance training etc;
- Square the circle of legitimate national and local interests – Sabel’s pragmatist or experimental governance suggests one approach (on page 99).

In addition, as Chapter 9 argues, processes for developing overall strategies for remote Australia at national and state levels need to be considerably developed.

In sum, four foundational activities would re-vitalise remote Australia, and the role of the community, including Indigenous peoples, within it:

- A focus on enabling economic livelihoods across the region.
- Declaration of an agreed policy on remote settlement that guarantees security, safety and services in the national interest, providing an investment strategy for the next 50 years.
- New approaches to re-invigorating capital investment in remote Australia.
- Effective governance of remote Australia as a common region or zone rather than a collection of state and territory backyards reflecting national neglect.

Regional Contexts

Early in the life of the remoteFOCUS project the Department of Families, Housing Community Service and Indigenous Affairs and the Pilbara Development Commission responded to the Prospectus and subsequent community conversations by sponsoring more detailed work in the Pilbara and Central Australia.

As a result of this support the project has been able to practically test the principles and learning coming from the research. The ability to reflect on the generalised principles developed with a national focus and contextualise them in specific regions has provided a more robust framework for the remoteFOCUS project.

remoteFOCUS observes the way government administers, engages and governs the heartland of the Australian landmass- remote Australia. Remote Australia encompasses places that are distant from services, in many parts distant from the points of global economic activity, a region that everywhere is on the periphery of the political dynamic that drives Australian democracy.

And yet it also encompasses places, events and stories that have given national and international significance to Australia.

The remoteFOCUS project has over the past two years conducted a national conversation with the people and communities of remote Australia and made a more detailed analysis of three significant regions that cut across the heartland of the Australian desert region of remote Australia.

Prior to the arrival of non Aboriginal people a series of tribal nations used country to fulfill their livelihoods, utilizing the land and resources and spirit of that country to provide sustenance and livelihood.

Beginning on the east coast and pushing back into the regional and remote areas of the country, new land uses and resource allocations were forced on the original inhabitants and the history of contact and land settlement that is chronicled in Australian history books began to emerge. For our purposes the nature of the conquest is regrettable but importantly recognition that there was and there continues to be a contest, largely emanating from the changes in use and governance of the land, is a principle driver in finding new governance systems.

Early use of the land was driven by the nations need to sustain life with food and water and then through agricultural and pastoral development (initially through wheat, sheep and cattle) an economy. Each of the remote FOCUS regions to which we gave more detailed attention has at its centre an iconic town built to serve the national interest.

Longreach in far western Queensland became a transition point where the pastoral industry connected with the cities of the coast at the railhead. This region of the nation gave us the first big shearers strike, Waltzing Matilda was crafted as the iconic Australian 'anthem of the bush', and Australia's national airline Qantas was born and indeed our first aircraft were manufactured in Longreach. Transport is still critical to this region and surprisingly it remains better serviced as a small town than some parts of say NSW where towns like Bathurst which were also at the cross over between the pastoral west and the urban coast have no equivalent air services.

Adjacent to far west Queensland in central Australia, Aboriginal people have used what is now Alice Springs as a meeting place and a point of exchange. Alice Springs has been a key communication link between Australia and the European world since the telegraph station was established in 1872. In many respects there is no reason for Alice Springs to exist as a town other than its location at the mid point of any travel between the east and west or north and south of the nation and the role it continues to play as the communication hub not just within Australia but in a global context. The town is at the heart of the Australian – American defence alliance providing strategic services in communications that shore up western democracies through the Joint Defence Scientific and Research Facility at Pine Gap.

Incidentally it is most probably the existence of this facility and the constant flow of American and other visitors to the centre that ensures that Qantas continues to fly into Alice Springs.

Central Australia continues to attract national interest as a result of a different communication issue. The contest for Country (land and resources) and the economic outcomes that flow from different uses of country underpin a constant dialogue between Aboriginal people living on country and those choosing more comfortable living in settled towns and increasingly dependent on services and incomes derived from those towns. There is now an interdependency between the towns and Aboriginal people that has been

less pronounced in the past. A different form of communication barrier (contest of values) exists, one that challenges both Aboriginal and non Aboriginal people.

To the west of central Australia begins the eastern part of the vast Pilbara region that stretches across to the coast of western Australia. Forgotten and ignored for much of the last two hundred years the Pilbara is now one of three resource rich zones that will dominate the future of remote Australia in the next century. Already contributing considerably to the national wealth the Pilbara in many ways is becoming the symbol of the nations relationship with the emerging new world economy focussed on China and further into the future India. It has provided a welcome domestic stimulus for the growth and expansion of Qantas services to the mining centres in the north of WA where there are now more aircraft movements in a day than in any other towns of similar size in Australia. A virtual population of fly in fly out workers that is almost equivalent in size to the resident population of the region dips in and out of the region leaving behind a significant array of side effects that have to be worked through by local communities.

Conversations in each of the three regions acknowledge that the drivers that act on the focal towns and the regions are forces well beyond the control of the local and state governments that ostensibly are mandated to provide for the residents of the regions. Each of the towns is deemed to be suboptimal in size and resourcing in terms of the pace and scale of economic change that is confronting the residents and their ability to sustain the impacts of that change. All are at distance from the centres of power and the next major governance level. Most people living at distance from the regions have a limited interest in or indifference to the impact of these changes on local communities.

Importantly however each region in its own way has had a national and international role and in each case continues to have a significant contribution to make to the nation.

Something has happened over the past 30 years to diminish the voice and the strength and potency of the messages and ideas coming from such remote places. This report seeks to explore the shifts that have occurred through a closer examination of the more recent dynamics across the three regions. The report then identifies a series of common issues that present across remote Australia in the pastoral, indigenous, tourist and resource sectors. It concludes by suggesting a framework of questions to be worked through on a place by place basis to improve the governance of government across remote Australia.

Aboriginal Engagement

In early conversations with the Pilbara development Commission and the four Local Government bodies providing services across the Pilbara it was made clear that they all felt the pace of change was not in their view not able to take account of the interests and engagement of Aboriginal people of the region.

Ironically, the Pilbara is a notable exception to remoteFOCUS's identification of the governance problems of remote Australia being generally understood as belonging solely to the realm of Aboriginal public policy. In the recent flurry of planning for the region, including the WA Planning Commission's Pilbara Planning and Infrastructure Framework (2011) and the establishment of Pilbara Cities, the focus has been on attracting more long-

term residents from outside and building a more sustainable 'community'. This may be an alternative vision splendid, but, in its elaboration, Pilbara Aboriginal people – already the main group of long-term residents – have been all but invisible. This is despite Aboriginal people making up some 14% of the region's population, extensive Aboriginal reserves and lands held by the Aboriginal Lands Trust, and Aboriginal groups owning or claiming large tracts of native title land, including 136,000 square kilometres of the Western Desert. The latter is owned by the Martu people and, at the time of the determination in 2002, was the largest native title determination made to that date (see paper 4). Nor is there indication of where the multiple and, as the papers show, important Pilbara Aboriginal organisations mesh with the existing, planned, or proposed Pilbara governance or administrative structures.

In view of these deficits, and with support from the PDC, remoteFOCUS commissioned Dr Mary Edmunds to prepare a series of papers with three main objectives:

- to compile a socio-political overview of Aboriginal people in the Pilbara and report on the dynamics of engagement between Aboriginal people and the institutions of the Pilbara including State and Commonwealth, local government, industry and other Aboriginal organisations;
- to undertake specific targeted studies in the Pilbara that will inform the remoteFOCUS project on ways of Aboriginal people being able to draw the greatest benefit from developments in the Pilbara and the establishment of the Pilbara Cities agenda; and
- to distil from the overview and case studies evidence-based learnings and recommendations as a basis for strategic and positive ways for Aboriginal people to pursue their aspirations through engagement/involvement in governance reforms in the Pilbara and the associated investments occurring in that region.

There are six papers that address these objectives.

- Chapter 10 – remoteFOCUS and Pilbara Aboriginal People – a distillation of the following five chapters.
- Chapter 11 – 'Doing washing in a cyclone, or a storm in a teacup? Aboriginal people and organisations in the Pilbara' – is an overview of Pilbara Aboriginal demographics and dynamics, both historically and in the context of the present hyper-development.
- Chapter 12 – 'A new story. Roebourne : a case study' – looks at the history and current activities in a town that has a largely Aboriginal population and two recognised native title holding bodies.
- Chapter 13 – 'Harnessing the cyclone. Gumala Aboriginal Corporation: a case study' – examines the workings of a particular Aboriginal organisation set up through the process of negotiations with a mining company.

- Chapter 14 – ‘Connections, continuities, and change. Martu and their country’ – looks at the ways in which a Western Desert group in one of the most remote areas of remote Australia has acted and responded to the impact of change.
- Chapter 15 – ‘Imagining a region: prototypes and possibilities for Pilbara Aboriginal people’ – takes the broader view of how Aboriginal people and organisations are operating and might operate at a regional level, including ways in which they might engage with wider Pilbara regional planning and governance institutions.

These papers, individually and collectively, illustrate the effects of the governance dysfunctions of current governance structures and practices affecting remote Australia and identified as part of the broader remoteFOCUS project. They also point to another critical and unresolved tension for governments: that is, how to achieve greater clarity of national purpose and realisation of appropriate living conditions and opportunities for Aboriginal citizens while at the same time accepting the right of Aboriginal people to cultural distinctiveness and identity.

5. Responding to Economic Globalisation: Strengthening and Centralising State Capacity

Professor Ian Marsh

Governance in Australia was transformed after 1983. In the face of a perceived economic crisis and weakened state capacity, major changes were progressively introduced which were designed to buttress governmental authority and rework the role of the state (e.g. Kelly, 1992; Pusey, 1991). The most fundamental change concerned the ends and means that framed conceptions of the state. A new narrative concerning the policy challenges presented by an open and globalised economic context was adopted by both major parties. In a decade, developmental and social policy frameworks that had been in place since Federation were overturned. Bipartisan endorsement was critical in the rapid implementation of this agenda.

The first administrative/organisational step involved a reframing of governmental structures, which was intended both to enhance central control and to extend the role of unfettered markets or quasi-market disciplines. Their influence was expanded through private and public sectors (Keating, 2004; Bell and Hindmoor, 2009; for a similar discussion in the British context, Gamble, 1988; for some of the unintended outcomes, Braithwaite, 2008).

This approach was adopted by both major parties as a remedy to the stagflation of the 1970s. Overly protected markets, overly rigid wage fixing, a sclerotic trade union movement, government services framed around the interests of producers not consumers and capture of programmes by rent seeking interests were held to be its principle cause (e.g. *Australia at the Cross Roads*). Change in public policy continues to unfold within this broad framework. This is evident in the ends adopted for - and the means used to achieve - outcomes in three key policy domains: the economy, the provision of public services and the welfare system. Whether these approaches are appropriate for managing the complex and distinctive issues that arise in remote Australia is the central concern of this report.

These changes were introduced through three broad phases: the first covered economic activities that were directly under Commonwealth control; later change was extended to areas like public utilities where state cooperation was required; then, from the late 1990s until the present, attention switched to social policy and human services. Micro-economic reform has provided the narrative thread. Through newly enhanced top-down authority, market or quasi market arrangements have been extended across the whole public sector, including to the delivery of public services. One of the claimed benefits was cost efficiencies. By recasting citizens as consumers, another claimed benefit was client empowerment. We will see later that, in the case of remote Australia at least, outcomes have been almost wholly problematic.

The following paragraphs explore in turn these three dimensions of change:

Strengthening the Central State: Centralised policy control was enhanced by budgetary, organisational and personnel changes that were designed to give the centre the language, technologies and administrative capacity to drive wider changes. As a first step, the control of ministers and key co-ordinating departments was strengthened. Within this framework, the focus has shifted progressively from economic structures and regulatory frameworks to, most recently, the delivery of human services. In addition, a strategic agency, the Productivity Commission, was repositioned and it has emerged as a principal steward of the forward agenda.

The move to stronger controls by ministers and coordinating departments occurred progressively. In 1983, the incoming Labour government inherited a report on public administration (Reid, 1983), which echoed a recurrent theme: how to increase the responsiveness of the public service to the elected government. In implementing this report, the authority and accountability of ministers, particularly senior ministers, was extended and the influence of the central departments (Treasury, Finance, Prime Minister and Cabinet) widened and consolidated. A number of budgetary and organisational steps reinforced these organisational changes.

The first development involved budgetary arrangements (Howard, 1986). Central agency control was reinforced through the Financial Management Improvement Program (FMIP). To better cost programs, forward estimates were introduced and to better focus on performance, budgets were recast in terms of programs and outcomes. Reporting against these indicators was also introduced. These changes all served to enhance the influence of the Finance and Treasury Departments. The influence of Treasury was further strengthened because, in the formation of the strategic agenda, the narrative of economic liberalisation cast this department in the critical role (e.g. Edwards, 1996).

In 1983 the government published a White Paper on the machinery of government (this and the subsequent developments are reviewed in detail in Nethercote, 1986). This foreshadowed a strengthened role for central agencies, a Senior Executive Service, and augmented resource allocation processes. These changes were embodied in a Public Service Act in 1984. One key step involved a new accountability structure for top executives. Permanent Heads were re-cast as departmental secretaries, serving at the pleasure of their ministers and with the concurrence of the prime minister. In future, these officers were to be appointed by ministers with the approval of the prime minister and after consultation with the chair of the (then) Public Service Board. A Senior Executive Service was also established with officers appointed on fixed term contracts. Again the focus on ministers was reinforced as promotion was at the discretion of departmental secretaries without the involvement of the Public Service Board, a step which was reinforced by its later abolition and its replacement by an advisory agency, the Public Sector Management Commission. In other words, the notion of a unified career service was considerably qualified and the influence of ministerial views and desires given significantly more weight in personnel appointments and decisions. This had substantial longer term implications for the orientations and loyalties of public managers. Based on notional productivity gains, across-the-board efficiency dividends were also introduced.

Another key structural step was taken in 1987, when inter-related policy functions were brought together in mega departments (Social Security, Employment and Workplace Relations etc) with senior and junior ministers dividing responsibilities for overall strategy and priorities and specific programs. This step created powerful departmental 'silos' at the peak of the national policy making system.

In addition, the adoption of budgeting via Portfolio Budget Statements required departments to undertake strategic and business planning. Moreover, a number of specialised regulatory functions were progressively spun off into separate agencies (e.g. ACCC; ASIC; Centrelink, Air Services Australia etc). For example in 2002, Centrelink had partnerships with 25 federal and state agencies, serviced 6.4 million customers from over 1000 service points and disbursed annually around \$55 billion or roughly one third of the Commonwealth budget (Halligan, 2008).

Finally, what is now the Productivity Commission increasingly assumed a much more prominent role in the development of the forward agenda. This agency became its primary source. The subsequent pattern of agenda change can be traced through its annual reports – from tariff reductions to privatisation, on to competition policy and contracting out, and turning progressively to more troubled areas at the heart of federal-state relations: health, transport, education as well as welfare and indigenous issues. The Commission also has important monitoring responsibilities. For example, the Commission prepares a biannual report on progress in indigenous development. Reflecting the implicit policy framework, this report focuses predominantly on individual circumstances and job-ready capacities. The most recent report fills some 750 pages (further discussed on page 99)

A liberalised economy: From roughly 1907 until 1983, the central government played a critical role in the development of industry and employment. This occurred via two mechanisms. First, industry development was largely based on tariffs. This created a substantial manufacturing sector, but one largely oriented to the domestic market. Second, public enterprises were a major source of employment. These included a major bank, two airlines, a shipping service, railways, transport, electricity generators and distributors etc.

From the late 1980s through to the mid 1990s, Commonwealth and State governments progressively withdrew from most of these activities. In the new neo-liberal narrative, public utilities were seen as cumbersome monopolies, retarded in their efficiency and responsiveness by the absence of bracing market pressures. Newly liberalised capital markets were assumed to be sufficiently mature and flexible to make the primary allocation decisions. We will see later that, in the case of remote Australia, this latter premise at least lacked realism.

In its rhetoric and in practice, the state also progressively withdrew from employment creation. In general, such programs were deemed to be ineffective and counter-productive (Saunders, 2004). Interventions now focused on training and skills development and (explored further below) mutual obligation. We will see later how this has affected the CDEP scheme. Meantime, from the late 1980s, micro-economic reform was introduced to

strengthen the supply side of the economy (Keating, 2004). Its impacts on public sector services are reviewed below.

Contracting out public services: The turn to contracts with NGOs or for-profit organisations for the delivery of public services was driven by both theoretical and practical considerations. At a theoretical level, the development of public choice, principal-agent and other approaches produced a new array of perspectives on the relative efficiency of public versus private provision. For example, this literature offered new perspectives on the likely capture of programmes by organised interests (such as business groups, public sector unions etc) and the aggrandising tendencies of public bureaucracies (Olson, 1965; Brittan, 1975; Downs, 1957; Niskanen, 1971). Principal-agent theory suggested more extensive use of contracts to avoid the shirking, opportunism and self-serving practices that were asserted to be endemic in ordinary hierarchical or professional relationships (e.g. Miller, 2005; for a critique, see Sabel, 2004).

These theoretical findings informed the development of public policy. Following a review of national competition policy in 1993 (Hilmer, 1993), the principle of competitive neutrality was extended to the provision of public services. In a first tentative application, the government white paper, *Working Nation* (1994) proposed the competitive delivery of case management into the then Commonwealth Employment Service. This experiment was deemed a success and in 1998, the whole service was privatised. The resulting Job Network represented one of the first comprehensive attempts internationally to apply market principles to the provision of assistance to disadvantaged job seekers (Considine, 2001). The relevant department (DEEWR) has now established contracts with around 109 non-governmental organisations (including for-profit and not-for-profit suppliers) to provide employment related services from around 1000 sites (Productivity Commission, January, 2010).

A Productivity Commission report in 2002 (*The Job Network*) noted the potential for more difficult clients to be sidelined. It also noted the very considerable savings which had accrued to the Commonwealth Budget, a point echoed more critically in the later Freud Report on employment services in the UK (2006). The use of contract arrangements has since extended to disability employment and a range of special services. As we will see in the next section, these are primary means for service delivery in remote Australia. In addition, to prevent error and to overcome inappropriate practices, accountability requirements have progressively become more elaborate. A 2007 report by the Catholic Social Services Australia (CSSA, 2007) found that under the pressure of accountability requirements, transaction costs had mushroomed disproportionately in the mainstream employment sector and that incentive arrangements had made creaming and parking endemic (also Productivity Commission, *Contribution of the Not-for-Profit Sector*, 2010 esp. 297-348). Contracting out to for-profit and NGO service providers is now the dominant approach. For example, in 2002 the Department of Family and Community Services (FaCSIA) spent \$730 million on partnership arrangements of various kinds with 15 000 non government organisations. In a comprehensive survey of published evaluations, Hodge (2004) finds that, beyond very specific circumstances, the cost savings claimed for outsourcing have not been demonstrated.

Contracting out through NGOs can also affect their representational capacities (e.g. Sawyer, 2002). Moreover, since there is typically no revokable purchase decision, the notion that quasi-market relationships enhance the power of citizens qua consumers seems mostly to be a fiction. This is particularly the case with outsourced programmes in remote Australia, where the non-existence of a network of potential service providers effectively undercuts the economic rationale for outsourced arrangements' (Dillon and Westbury. p. 59- 60).

An unpublished appendix to the Productivity Commission Review of the Not-for-profit Sector (Appendix J, 2010, available on line) lists NGO concerns about the working of the contractual system. The most fundamental involved the capacity of organisations to plan for local needs. The following comments are cited as representative of NGO concerns:

Sector Connect Inc: 'The major issue arising with respect to local knowledge and needs was a perceived limitation on organisations' ability to plan for changing local needs.....They had little or no real input into shaping future funding programs to reflect what they were experiencing and learning locally' (Appendix J, 2010 p. J2)

Illawarra Forum Inc: 'The purchase of service contracting...erodes the independence of NFPs in ways that make it difficult for them to remain responsive and flexible to community needs...A better modelbased on identification of local needs, the negotiation of funding levels and performance targets and measures is required' (Appendix J, 2010 p. J4)

Catholic Social Services Australia: 'Over time there is a tendency for contracts and funding requirements to become more detailed and prescriptive...If this trend continues there is a risk of a shrinking gene pool of ideas and service techniques in Australian social services. The cost of tighter government control and more detailed, more uniform reporting mechanisms will be a reduction in local autonomy and a decreased ability to harness local knowledge'.

Other matters that attracted criticism from agencies included: the short term nature of government contracts; the inappropriate transfer of risk; excessive compliance and reporting costs; the degree to which contracts are being used to micro-manage NFPs; and the sheer volume of contracts that community organisations need to manage. Examples of these individual concerns are explored in detail in the PC document.

Mutual responsibility in the welfare system: Australia's social policy system encompasses the provision of health, housing, education and community development as well as benefits to individuals. Whilst activity in all these areas has been affected by contracting out, the following discussion concentrates on changes to the income support system. This was originally conceived as a residual arrangement (Castles, 1985). Income support was based not on social insurance but rather transfers from general tax revenues. The system was designed to assist people in particular need, for example the indigent aged or disabled citizens or those, like the unemployed, with transient needs. The protected domestic economy meant that, at least in principle, jobs were readily available. Providing foreign exchange receipts from agriculture and minerals were sufficient, tariffs could be used to sustain employment in manufacturing. Moreover, the regulated wage fixing

system fulfilled a social justice function since the basic wage was based on need and not on capacity to pay. In practice of course, full employment was often not realised – for example, unemployment was particularly acute during the depression.

In the immediate post war period the broad reach of income support and social security measures was significantly extended and deepened (e.g. health arrangements, pharmaceutical benefits, housing, educational access, pensions etc) and this general framework, which was progressively augmented, prevailed broadly until 1983. Meantime, technical change, the movement of women into paid employment and changing occupational patterns created new imperatives – for example, for more flexible payment and work arrangements and for more part time jobs. Structural adjustment from the mid 1980s also produced a surge in unemployment levels.

The welfare system was the primary buffer against these accumulating pressures. However, by 2001, 28% of all Australian residents 15 and over were receiving income support (Keating, p. 137). Moreover, in 2007, of the 550 000 people on unemployment benefit (UB), 325 000 had been in receipt of benefits for more than 12 months – hardly the bridging assistance that Deakin had envisaged. In 2005-06, 700 000 were in receipt of disability pensions and 600 000 supporting parents benefits (Chenoweth, 2008). A system largely intended to deal with transitional events had become the principal source of support for a significant proportion of the population.

In the 1980s and early 1990s, governments responded by much tighter targeting and cost cutting. Later mutual obligation came into increasing prominence. In 1988, then Opposition Leader Howard had foreshadowed a 'Community Service Scheme' for unemployment recipients. Work for the dole legislation was not however enacted until 1997. From 1998 the principal of mutual obligation was introduced in conjunction with development of the contract-based Job Network. Those unemployed for twelve months or those assessed as having significant difficulties in qualifying for employment receive *Intensive Support Customised Assistance*. These clients are assigned a case manager who determines training and developmental needs. Failure to comply results in a 'breach' report and serial breaching results in disqualification from benefits. Assessment of needs for assistance and referrals to Job Network agencies are provided by Centrelink. From 2006, these principles were progressively extended to citizens in receipt of disability benefits and to single parents.

Commonwealth-State relations: The overlap in responsibilities between Australia's federal and state governments had long been a feature of the Federation. But the broader economic agenda outlined above, progressively required new capacities for cooperation between levels of government. This intensified as microeconomic reform was extended to education, health, utilities and transport. An initial agenda was established through the Hilmer review. The organisational framework for its implementation was put in place with the establishment of COAG in 1992. The micro-economic reform agenda has since expanded to embrace the activities of state governments and the COAG apparatus has become progressively more elaborated. Currently, over 40 ministerial councils operate under its general auspices including one covering indigenous affairs, but not remote Australia. Specific developments in indigenous affairs are considered later.

'Wicked problems' and whole-of government approaches: The election of the Howard government in 1996 coincided with a turn in the agenda from more narrowly economic issues towards human services. As noted above, the first steps involved action in areas in which the Commonwealth government had direct responsibility, notably establishment of the Job Network. However the inadequacy of siloed approaches became increasingly apparent, particularly in contexts such as long term unemployment, burgeoning numbers of disability pensioners and single mothers, governmental concerns for alcohol and drug abuse etc. Hence, attention shifted to the systemic contexts in which such 'wicked problems' were embedded. Responding to similar pressures, the Blair government in the UK had, from its election in 1997, placed considerable emphasis on whole-of-government working (PMSU: *Wiring it Up; Joining it Up*, HMSO, both 1998).

This approach began its migration to Australia with the establishment of the Management Advisory Committee (MAC) in 1999. This was a committee composed of the heads of each federal department with a brief to take the lead in cross-service issues. This process advanced in 2002 with the establishment of COAG trials (reviewed below, p.). Indeed, the delivery of services to remote communities became the seed bed for testing the efficacy of whole-of-government arrangements. This was further advanced in 2003, when Peter Shergold was appointed head of the Prime Ministers department. In 2004, MAC published a comprehensive report *Connecting Government: Whole of Government Responses to Australia's Priority Challenges*, which explored the requirements for joined-up government including culture, organisational arrangements, funding, reporting structures etc. This was followed by two other complementary documents: *Tackling Wicked Problems* (APSC, 2007) and *Policy Implementation through Devolved Government* (APSC, 2009). These explored the complexities of such arrangements, the requirements to make them work and the lessons from early experience, for which Indigenous affairs was a prime site. These are reviewed in more detail in a subsequent section.

Conclusion: Looking back from the present vantage point, two outcomes are clear. First, government continued to play a leading part in a wide variety of economic and social policy areas. Government may have changed its role, but its influence was no less pervasive. The state determines what outcomes it wants to achieve and how they will be sought. Second, there is a clear template for action: in the first instance, strong central leadership with prime responsibility for determining desired outcomes located in the central authorities; thereafter, public services are best delivered through contracts or quasi-contractual arrangements with specialist for-profit agencies or NGOs.

This framework was modified to accommodate two cases: those which involve chronic or intractable problems; and those which engage more than one department or level of government and/or local stakeholders. In these settings, management was shifted to a whole-of-government pattern. Before considering how effective this proved in practice, changes to the administration of Indigenous policy are traced.

6. Mainstreaming Indigenous Service Delivery

Professor Ian Marsh

From 1988 until 2004, the policy framework for indigenous affairs in and beyond remote Australia marched to a different drumbeat. In this period there was an effort, via the Aboriginal and Torres Strait Islander Commission (ATSIC), to build a separate structure which both redressed indigenous disadvantage and created a context for Indigenous voice and engagement. ATSIC had been established in 1987. By the time of the election of the Howard government (1996) ATSIC's achievements had been increasingly overwhelmed in public and indigenous perceptions by its failings. Following an enquiry, which recommended a contrary course, and not without substantial controversy, ATSIC was abolished in 2004 (Hannaford, Huggins and Collins, 2003; also submissions from W. Gray and W. Sanders: the report and these submissions all recommended a re-structured organisation). Abolition received bipartisan support. Thereafter policy was 'mainstreamed' with responsibility for ATSIC programmes distributed relevant line departments.

The abolition of ATSIC was accompanied by a new governance structure. This involved at least three elements: the development of strategic capacity and focus within the Commonwealth government; the development of federal-state machinery; and the establishment of new on-the-ground delivery arrangements. These are briefly considered.

Strategic leadership by the federal government:

In March 2000, in an endeavour to impart a more positive orientation to indigenous policy, the Howard government espoused what it labelled 'practical reconciliation'. This explicitly acknowledged the leadership role of the national government.¹⁷ It aimed to improve conditions on the ground in relation to health, housing, education and health.

In 2001, the Howard government invited the Commonwealth Grants Commission (CGC) to undertake a comprehensive review of gaps in indigenous access to services and of funding arrangements. A decade later, without significant gain in outcomes, it is salutary to recall the core points of this report:

'The social economic and cultural circumstances of Indigenous Australians differ greatly between urban, regional and remote locations. The services provided....how they are provided and the costs of providing them differ with location.

Mainstream programs do not adequately meet the needs of Indigenous people because of barriers to access. These barriers include the way programmes are designed, how they are funded, how they are presented and their costs to users.

¹⁷ Grattan, M. 'Howard practices a sorry argument', *Sydney Morning Herald*, 30 March 2000, p. 8.

In all regions, across all functional areas examined in our enquiry Indigenous people experience entrenched levels of disadvantage compared to non-Indigenous people.

It is clear from all available evidence that mainstream services do not meet the needs of Indigenous people.

It should be expected that their use of mainstream services would be at greater levels than those of non-Indigenous Australians. This is not the case. Indigenous Australians access mainstream services at much lower rates than non-Indigenous people.

Some essential features (of program development) include....Indigenous control of, or strong influence over, service delivery expenditure and regional and local service delivery arrangements that emphasise community development, inter-agency cooperation and' general effectiveness.'

The CGC noted that mainstream services are mostly planned and delivered to meet the requirements of the most common users and do not allow for the extreme disadvantage and special needs of Indigenous people, a point echoed in other analyses. For example: Dillon and Westbury conclude: 'Program design is invariably undertaken centrally and given the relatively small size of niche programs; "one-size-fits-all" approaches are inevitable' (p. 69)

In 2002, joined-up government was launched with trial at eight indigenous sites. In May 2004, following the abolition of ATSIC, the government established a Ministerial Taskforce on Indigenous Issues. The idea was to create a Cabinet level committee to drive the 'practical reconciliation' process.¹⁸ This was supported by a Secretaries Group which was designed to coordinate implementation. To continue Indigenous representation, a new nominated National Indigenous Council was also established. At an administrative level, an Office of Indigenous Policy Coordination was also established, first in DIMIA and later in FaCSIA.

Meantime, programs formerly administered by ATSIC were transferred to mainstream departments with the employment program (CDEP - \$574 million in 2006-07 budget) transferred to DEWR and the housing program (CHIP - \$292 million) transferred to FaCSIA. Program development was to be informed by three priority themes: early childhood intervention, safer communities, and building indigenous wealth, employment and an entrepreneurial culture.

To effect change at the local level, *Shared Responsibility Agreements* (SRAs) were to be signed covering particular measures. In addition, to build coordinated action these were to be backed by *Regional Partnership Agreements* (RPAs). By 2007, 180 SRAs and 3 RPAs had been signed. These are detailed in an Australian National Audit Office (ANAO)

¹⁸ Ministerial Taskforce on Indigenous Affairs available at <http://www.atns.net.au/agreement.asp?entityID=2330>

evaluation (2009). Indicating the importance of mainstream programs, these arrangements represented a very small proportion of the overall budget which then stood at \$3.5 billion. Likewise, in 2006-07 only \$75 million over 4 years was committed by eight government departments for SRAs in a total indigenous budget of around \$3 billion. (Hunt, 2007, p. 163).

To implement these arrangements, thirty multi-agency Indigenous Coordinating Centres (ICCs) were established in urban, rural and remote Australia. By 2006, some 562 staff members were assigned to ICCs (approx 19 staff per centre). They assumed three main roles: program administration; solution brokering to provide a bridge between community needs and departmental programs; and developing SRAs with local communities. ICC managers were the key.

Meantime, in June 2006, a Summit on domestic violence and child abuse in indigenous communities was convened. This included representatives of state and federal governments. The participants agreed to examine a range of proposals, including 'a greater role for a network of Aboriginal seniors'.¹⁹ These recommendations were discussed at a COAG meeting in July. In December, the federal minister released his blueprint for action. Its three key points were the same as those announced in May 2004: early childhood intervention, safer communities, and building an entrepreneurial culture.

In June 2007, five months before an anticipated election, the report, *Little Children are Sacred*, was published. It documented distressing levels of child sexual abuse. Its release was accompanied by much media fanfare. Six days later the federal government announced its emergency intervention, the Northern Territory Emergency Response (NTER). It described the level of child sexual abuse as a national emergency.²⁰ As noted earlier, this response effectively repudiated processes and approaches that had been unfolding over the previous seven years.

In 2008, after defeat of the Howard government, the NTER was reviewed (2009) and the government subsequently modified its operation in a number of areas. Emphasis returned to community consultations and the ICC process.

Federal-State Collaboration: Commonwealth-State collaboration in Indigenous affairs commenced in 1992 when the newly established Council of Australian Governments (COAG) adopted a 'National Commitment to Improved Outcomes for Indigenous People'. This was lifted to a new level in November 2000 when COAG adopted a *Framework to Advance Aboriginal Reconciliation*. In April 2002, COAG endorsed the whole-of-government trials, which were discussed previously. This approach was continued by the Rudd government. Its election in 2007 was followed by a renewed commitment to Indigenous development with COAG as the primary platform for national policy development.

¹⁹ Larissa Behrendt, Indigenous Policy: law and order is only part of the solution, Australian Policy Online, 3 July 2006, accessed at www.apo.org.au

²⁰ See FaCSIA media release 21 June 2007

In 2008, COAG agreed to six ambitious targets to ‘close the gap’:

- Close the gap in life expectancy within a generation
- Halve the gap in mortality rates for indigenous children under five within a decade
- Ensure all indigenous four year olds in remote communities have access to early childhood education within five years
- Halve the gap for Indigenous students in reading, writing and numeracy within a decade.
- Halve the gap for Indigenous students in Year 12 attainment or equivalent attainment rates by 2020
- Halve the gap in employment outcomes between Indigenous and non-Indigenous Australians within a decade.

Government efforts were focused on seven building blocks or ‘strategic areas for action’: early childhood, schooling, health, economic participation, healthy homes, safe communities; governance and leadership – the latter involving Indigenous communities not the wider governance system that was to deliver on these goals. These building blocks have become the focus of the Productivity Commissions biannual assessment and also of the (briefer) annual report by the Prime Minister (e.g. Prime Minister, 2011). We will see later in the discussion of strategic policy making that the theory of development, implicit in this framing, is not uncontested (Chapter 9, on page 99). We will also see that this was introduced without any engagements with its nominal subjects.

There is also an intergovernmental agreement covering indigenous development (*National Indigenous Reform Agreement – Closing the Gap*, 2009) In addition, there are National Partnership Agreements covering inter-governmental collaboration in the following indigenous areas: Remote Service Delivery, Economic Participation, Health Outcomes, Early Childhood Development, Remote Housing, Remote Public Internet Access. This elaborate framework, which constitutes the primary governmental strategic design for ‘closing the gap’, continues to evolve.

In 2010, the *Indigenous Expenditure Review Group* published its first report on expenditure on indigenous services. This sought to establish a consolidated figure based on three components: the costs of targeted services; estimated expenditure based on the direct use of services (education, health etc); and indirect expenditure based on relative population shares. Whilst conceptually clear, in practice these last two calculations proved much harder to derive. The report estimates total indigenous expenditure at \$21.9 billion or 5.3% of total general government expenditure. Estimated expenditure per head was just over \$40 000 for Indigenous Australians compared to just over \$18 000 for non-Indigenous citizens. The report notes the differences is due to three factors – more intensive use of mainstream services because of higher levels of disadvantage, the provision of indigenous specific services and the difference in the cost of providing mainstream services.

Note the aggregated nature of these calculations. The data is also reported by state. But no other levels of disaggregation are reported. For example, there is no distinction between regions. These assessments may be relevant to later discussion of a potential additional role for the Commonwealth Grants Commission.

Outcomes:

Evaluations of outcomes are now comprehensive and periodic. For example, already in 2011, two comprehensive documents have been presented: the 750 page biannual Productivity Commission report and the Prime Ministers Annual Report to Parliament (Prime Minister 2011). Both documents use as fundamental points of reference the closing the gaps headings and targets. Their appropriateness is discussed in a later Paper (Chapter 9, on page 84). In the Productivity Commission report results are presented against 37 specific sub-targets. These are proxies for broader objectives adopted by COAG. They also implicitly suggest a causal structure although the systemic links between the various principal outcomes are not explored. For example, employment outcomes are not prioritised. They are co-equal with health, educational, security and housing outcomes. This causal assumption might be questioned.

The data is mostly also presented in aggregate or at least state-based terms. Despite repeated acknowledgement of the extent to which circumstances vary by location, it is not disaggregated by region.

Outcomes have barely changed. From a seven year vantage point, it is equally hard to see how mainstreaming has improved the circumstances of people who live in remote communities. The array of indicators (now 12 prime and more than 37 secondary measures) shows marginal gains in an absolute sense in only three indicators and, when measured relatively against parallel changes in outcomes for the non indigenous population, backward movements in every single case. According to the 2011 review, outcomes have improved in relation to life expectancy and young child mortality; the gap has increased in relation to disability and chronic diseases and child abuse and neglect; and there is no change in relation to most of the rest including employment, post-secondary education, household and individual income, family and community violence, reading etc.

Conclusion:

This section has reviewed the various elements involved in the 'mainstreaming' of Indigenous service delivery. In the process the governance system has been reconfigured. An overall strategic framework, focusing on closing the gaps between Indigenous and other Australians in average outcomes in seven socio-economic dimensions has been established. This strategic framework has been endorsed by COAG and hence has attracted the support of both federal and state governments. Implementation has been reworked. Thirty-four Indigenous Coordination Centres have been established with a brief to broker programs into local regions and to bundle programs at the local level. Joint Responsibility Agreements, Strategic Results Agreements and Local Investment Plans have all been introduced to support these organisational initiatives. Finally, an elaborate

reporting and evaluation structure has been put in place. How effective is this suite of governance measures on-the-ground?

7. Are there Structural Barriers to Whole-of-Government?

Professor Ian Marsh

Is it possible to design effective whole-of-government arrangements within present meta-structural constraints? The latter has become the primary framework within which indigenous policy development and service delivery has been orchestrated. From the outset, the profound challenge that this would pose to governance was recognised. Two MAC reports (2004, 2007) described the changes in organisation and processes that were essential if whole-of-government was to work.

This included five basic imperatives:

- substantial initial cross-agency/stakeholder agreement about the broad purposes to be pursued;
- use of the outcomes budget framework to pool resources and to create appropriate accountability frameworks;
- lead-agency staff empowered with sufficient authority to manage whole-of-government settings and to lead the engagement of local stakeholders,
- empowering these same managers to engage with relevant individuals and interests;
- And finally ensure the individuals engaged in these latter roles have the appropriate networking, collaboration and entrepreneurial skills.

These are very demanding requirements. Can the development of localised authority and localised discretions be reconciled with central determination of outcomes and central budgeting and accountability arrangements? Or are devolved, whole-of-government outcomes not possible without much more radically decentralised designs?

What programs are involved? To grasp the whole-of-government challenge, a first step involves assessment of the multitude and variety of programs that ICCs are supposed to broker into local communities. In practice, they can do this by one of two means: either by brokering linkages between communities and programs; or, more demanding, by joining individual programs into a funding block funding. By either means, ICCs are expected to achieve greater program impacts in a specific local context.

The Strategic Evaluation of Indigenous Programs (Department of Finance, 2010) offers the most recent comprehensive overview. It identified no less than 232 individual programs which in one way or another support Indigenous Australians. This report reviews these programs in the context of the various broad outcomes that the government has established.

An earlier ANAO report (2007) focused on the four primary departments - DES, DEWR, FaHCSIA, and Health. This report identifies 94 programmes, either mainstream or niche, that are relevant to Indigenous affairs. DES operates 15 Indigenous specific programs and 43 mainstream programs that have Indigenous applications; DEWR 11 indigenous specific programs and the Job Network; FaHCSIA, 6 Indigenous specific and 6 mainstream programs; Health and Aging, 5 Indigenous specific programs and 9 mainstream programs. To add to the complexity, many of these major programs have sub components.

In a report on the indigenous trials, Gray (2006) noted the challenge of program management as perceived on-the-ground, in this particular case from Wadeye. The trial was intended to reduce the number of individual programs that local communities need to manage. In fact in the course of the trial the number of programs applied to the community increased to 90. In another example, Dillon and Westbury list the five Commonwealth programs that could be tapped to fund natural resource management on indigenous land: 'An important and growing policy area where in recent years scores of Indigenous ranger programs have emerged across northern Australia focused on land and resource management. Program funding in this area comes from a diverse array of agencies: the National Heritage Trust, the Indigenous Protected Areas Program, CDEP, STEP and the ABA. ...Programs vary in size from hundreds of millions (for example the CDEP or ARHP) to less than half a million (for example the Indigenous Children's Program). (p 66)

With 39% of the indigenous population under 15, education is another critical area. The same authors note the array of programs relevant here: 'The national flagship programs include the Youth Allowance and Abstudy: the former is targeted at young people studying, undertaking training for Australian apprenticeship, looking for work, or sick; the latter at indigenous students. Over and above this FaHCSIA has four 'niche' programs which provide youth services of various kinds with a total national budget of \$34.6 million and a client base of approximately 340 000 nationally. DEST has at least ten youth related Indigenous specific niche programs....the data on numbers of service providers suggests that the availability of these programs in remote Australia is very patchy...It is clear that across the national government there are a couple of hundred different programs potentially allocable to the circumstances of remote citizens. Access is a different matter entirely' (p. 67/68)

Finally, they note the bewildering array of programmes aimed at indigenous housing: 'The existence of concurrent state and national responsibilities means that in some areas programs are duplicated by each jurisdiction. Housing is a classic example where states, territories and national governments deliver both mainstream and Indigenous housing and housing related programs, and even within the national government there are a number of separate Indigenous housing programs (CHIP/NAHS, CHIP/AACAP, FHBH) all delivering housing and essential services at the community level, along with ARHP which funds the states and territories to deliver housing at the community level' (p. 65).

The whole-of-government architecture was designed to ensure these programs are accessed by the citizens that they are intended to serve. How effective have these arrangements proven to be?

Whole-of-government administrative architecture: Since whole-of-government arrangements were introduced in 2002, there have been at least nine reviews. The first four covered the initial COAG trials and the rest subsequent developments. Seven were official or commissioned evaluations and the remainder independent academic assessments: Urbis, Keys, Young, 2006; Morgan Disney, 2006; Gray and Sanders, 2006; Gray, 2006; ANAO, 2007; KPMG 2007; Hunt, 2007; FaHCSIA, 2007; O'Flynn and Blackman, 2010). All these reviews repeat points stressed in the MAC documents, namely that whole-of-government will not work without devolution of authority, funding, accountability and coordinated organisation. They also all find continuing and unresolved administrative difficulties. It has not proved possible to reconcile centralised 'siloes' organisation and funding with devolved authority and flexible resource management.

As an introduction to these unresolved problems, consider the case of Mutitjulu, ironically the first community named in the NTER. Before whole-of-government was conceived, this community tried, over more than a decade, to obtain for itself a new style of governance (Smith, 2009). Its efforts foundered on immovable central structures. This story starts in 1991 when the NPY Women's Council prepared a report highlighting concerns about 'controlling and caring for children'. A series of submissions and discussions followed. In 2000 the community council at Mutitjulu asked Centrelink, ATSIC and FaCS to work with it to develop a practical strategy to deal with welfare dependency and related family problems. Following a consultation, the Community Council itself proposed a Participation and Partnership Agreement. The departments did not respond. Why? 'First, the key departments would not support an "All in" community model of welfare reform and would not support linking Youth Allowance with school attendance, even though these had been specifically requested by community members...Second, Centrelink and FACS would not countenance an indigenous community working with them to develop and implement locally-relevant breaching rules. Neither would they countenance a community organisation being provided with a delegation under the Social Security Act in order to do so...Third, entrenched inter-departmental turf wars in Canberra meant that the departments concerned were unable to negotiate a common position...And finally the Australian government was unable or unwilling to reform the chaotic state of its departmental program funding in order to streamline the pooled funding and grant reporting arrangements that would have been required...In late June 2007, the Australian government announced that Mutitjulu would be the first community into which it activates national emergency measures. It will do so unilaterally'. So far as coordination is concerned, we will see little has changed.

The findings of the various evaluations affirm that whole-of-government is confounded at the critical regional and ICC levels. The obstacles are structural not contingent. Consider the two most recent reports, one official (2008, conducted by KPMG) and the other independent (2010, conducted by academics from the ANU and the University of Canberra). The KPMG study involved a review of internal documents plus interviews with 158 Australian and state government agency staff and 35 community organisations. The following selected observations define the magnitude of the structural barriers that continue to frustrate this arrangement despite six years experience and at least eight preceding reviews:

‘There is a definite trend of line agency staff presenting to communities/organisations as representative of their agency.....Communities/organisations reported this as confusing as they do not know who to talk to or if they have to talk to all the different agencies instead of accessing services through the ICC....ICC staff and line agency staff rarely visit communities together’

‘Many line agency staff were unable to provide governance and financial management assistance to organisations due to probity issues relating to assessment of funding applications...Communities advised that it was difficult for them to keep abreast of the changing policy and service delivery environment’

‘ICC managers reported frustration in undertaking (their intended leadership) role. As coordinators, Managers indicated that they do not have authority to gather agency staff support....Line agencies confirmed that their staff are directly responsible to their line agency and that the ICC manager has no authority to compel or direct staff to undertake ICC work.

‘Line agency staff located in ICCs commented that they experienced a tension between their program management responsibilities (i.e. the expectations of their line agency) and their responsibility to engage in what they referred to as ICC work....Conversely ICC managers reported feeling powerless in some situations as they do not have the authority to direct change.’ (p. 9)

‘The implementation of whole-of-government collaboration in ICCs is an area requiring significant improvements. Many of the issues that impede whole-of-government are structure and have little to do with ICC staff and management’s willingness to collaborate’ (p. 10)

‘Overwhelmingly the consultation repeated the message that the current funding and reporting arrangements are a significant barrier to whole-of-government collaboration...Line agencies have different program guidelines, funding rounds and delegation which do not align...Complaints were raised about the different risk assessments each line agency applies..in some cases this can result in applications undergoing up to 8 different risk assessments’

‘One ICC took over 12 months to negotiate and approve an SRA which was worth under \$50 000 in funding...To overcome the barrier of obtaining multiple line agency approvals...many ICCs have adopted the approach of developing smaller SRAs in terms of dollar value, number of signatures and issues to be addressed’

‘A perceived barrier to reducing red tape is line agencies different program and funding guidelines....For example one agency may apply more rigorous risk assessment for applications over \$100 000, while another agency’s more rigorous assessment only applies to applications over \$150 000.’

The findings of the University-based study (O’Flynn and Blackman, 2010) echo these conclusions albeit in more graphic terms. This study was based on 48 field interviews covering staff at ICCs, State and regional offices and in Canberra. It suggests that despite the top-down whole-of-government effort, Mutitjulu’s experience has not been

transcended. Their conclusion is unequivocal: 'Due to entrenched barriers, which permeate the broader public service, ICCs have been a failed experiment.'

Like KPMG, O'Flynn and Blackman identify structural failings in the basic organisational design:

- No or limited assignment of authority to the Indigenous Coordination Centre Managers,
- An ad hoc approach to the representation of departments (which meant staff were withdrawn as cost pressures emerged);
- An underinvestment in skills;
- Inconsistent operating systems.

They cite the comments of ICC managers, first on their delegations of authority:

I could not go out and direct another person to do something in this ICC ... because they're not from my agency. I could (only) ask, influence, beg (Executive Level, ICC).

Whole of government doesn't work ... when you've got all different agencies sitting in the one place, supposedly working together ... they're supposed to be all collaborating and telling each other what they're doing ... I'm telling you it doesn't work and I work in an ICC and I've been there since the day it started (Executive Level, ICC).

The fact that we're co-located with [Department A] and [Department B] and a couple of [Department C's] people is just window dressing. So there's no whole of government activity between them ... There's no practical program [or] whole of government approach (APS Level, ICC).

The NTER Review also picked up these criticisms but this time from the perspective of the clients: 'There as extensive comment in communities about the lack of co-ordination across locally based professional staff. Between the GBMs, Community Employment Brokers and shire service managers, there is not a clear point of authority or coordination'

A second set of unresolved governance issues arose from conflicting vertical and horizontal tensions which cut across in the administration of programs: According to O'Flynn and Blackman: 'The pervasiveness of a program focus and the silos that it creates were seen as impossible to combat even in a setting where there was physical co-location and strong endorsement from Ministers and Secretaries.' The comments of ICC staff provide graphic confirmation:

There's all these horrendous issues [in] the way we structure and design ... we're all in-house, independent silos that are not meant to really do anything more than service that particular program (Executive Level, ICC).

It seems to me the whole of government approach is about being entrepreneurial inside the public service ... [For] program managers and project managers it's not quite like that ... [they] are constrained within the approaches and silos (Senior Executive Service, ICC).

When you go from the top down to the bottom [WG] disconnects at multiple levels. It disconnects through the allocation of finances, it disconnects through the rewards for your accountabilities for your program ... so all those things work against it (Senior Executive Service, National Office).

A third problematic element involved centralised decision-making. This aspiration also fell foul of more embedded administrative practices and requirements:

The idea [was] for ICCs to have a pool of money that they could make decisions about. Well, in the great thing about being risk averse that was all centralised back in Canberra: ... useless basically. It just went against the whole thing about whole of government which is about sharing, devolving, not controlling everything, but taking responsibility and it's the same pattern. And that was a bit of its undoing, in fact because it was to give people the power to do the deal on the ground (Senior Executive Service, ICC).

There's systematic and the structural problems that everyone faces ... around the funding agreements ... really inhibiting for anyone ... and that certainly has happened [on] numerous occasions where ... people have been able to say, "well I think we can do that" and ... then going away and finding the actual delegate says, "no" ... and yet you've said, "yes" ... the people that are actually there [in ICCs] don't have ... the ability to be able to make a call that can be carried through ... (Executive Level, National Office).

[In the past] you'd have a cup of tea and even if you said "no" [community members] appreciated it. Whereas now, God, they're too scared to pick up the phone. They just feel the concept of the decisions and the power over their life is just so far removed ... a lot of the funding has been removed back to [the capital] ... [and] not only the position but the decision making [power] (Executive Level, ICC).

You cannot make a decision ... You can agree and say "we'll take it up the line" but that doesn't mean squat to me ... a lot of the poor old officers who go out there every two weeks, collect notes, build relationships, but in reality it's a very long and tortuous process ... (Executive Level, National Office).

Most recently, under the 2009 *National Partnership Agreements* between the Commonwealth and the States, the same broad arrangements have been extended to coordinate the delivery of programs across jurisdictions. Six agreements have already been signed and others are foreshadowed in relation to native title claims arrangements, remote infrastructure and healthy food. In general, the parties also commit to 'developing a co-ordinated approach' and 'enabling initiatives to be delivered in a manner appropriate to needs in particular locations'. To oversee the arrangements, a Coordinator-General based in Canberra was appointed in 2009. This officer would 'have the authority to work across agencies to cut through bureaucratic blockages and red tape...the Coordinator – General will have direct relationship with Commonwealth Secretaries ...and will work collaboratively with State and Territory officials and Ministers to achieve a unified approach'. This approach replicates on a national scale, the Commonwealth governments own whole-of-government arrangements. The ANAO report discussed earlier identified

some 95 relevant programs in four departments that were potentially relevant to ICC operations. Many sub-divided into a variety of further streams. How many more might be added when the diverse array of state programs are included? In the light of the experience with ICCs, it is hard to be sanguine about the likely success of this exercise in federal-state collaboration.

Accountabilities as a structural barrier to local effectiveness: Central accountability requirements create another barrier to on-the-ground effectiveness. Take health services. In the interests of enhancing local choice and control, the Aboriginal Community Controlled Health Services (ACCHS) were established in the 1980s. Funding was later transferred to ATSIC and grants were on a yearly basis but with an expectation of continuance. The Commonwealth Department of Health assumed responsibility in 1995 and thereafter funding increased. The pattern of funding has since further evolved with most services now drawing support from several sources: a core operating grant from the Office for Aboriginal and Torres Strait Islander Health (OATSIH); state government Health Department grants; and finally by proposal driven niche funding that could include broader social purposes.

Each funding source adopts its own application process, accountability framework and priorities. In an assessment of these arrangements, Lavoie et al (2009) note: 'Analyses conducted by the Victorian Department of Health suggests that the reporting and compliance burden is disproportionate compared to that imposed on other small and medium-size funded agencies' (p. 6). For example, aboriginal agencies receiving on average \$2 million were accountable for between 26-30 activities. NGOs typically received total funding of \$10 million for the same array of activities. This study also found that agencies can be required to produce up to 59 separate reports for 13 programmes. This boosts transaction costs disproportionately. Further, in a small service disentangling the daily time allocation of a single staff member between varieties of programmes can be wholly artificial. Finally, a 12 month funding cycle makes the recruitment of staff precarious.

These multiple accountabilities and the associated burden of transaction costs have persisted despite having figured so strongly in other evaluations. This suggests that the requirements derive from wider structural imperatives and cannot be excised without systemic change.

Consultation and the development of social capital. Every official report since 2001 has emphasised the imperative of working with and through local communities (e.g. Commonwealth Grants Commission, 2001; ATSIC, 2003; Whole-of-Government 2004; Morgan Disney 2006; wicked problems, 2007, NTER Review 2009; Devolved Government 2009; Department of Finance, 2010; Productivity Commission, 2011). To illustrate the complexities that can arise, Edmunds (2010, p. 16) cites the negotiations over James Price Point, which involved Woodside and a proposed LNG development. Negotiations were conducted with the Kimberley Land Council, the organisation which had statutory responsibilities for consultation under the Native Title Act. The Council had secured a consensus amongst key traditional owners. But a dissident group challenged these processes. Edmunds comments: 'This is a common situation and one that traditional law

could once have dealt with. However, it fits uneasily into contemporary decision making, raising a crucial question about how much, and whose consent is needed for informed consent.

If this is one dimension of the issue, another is the quixotic (from the perspective of local communities) behaviour of their governmental interlocutors. Take the NTER. This banned sales of alcohol on Aboriginal land. According to Maggie Brady, a specialist in alcohol use in Indigenous communities: 'The (political grandstanding associated with the NTER) was a little strange considering that most Aboriginal land in the Territory was already dry. There were already 107 general restricted areas, all on Aboriginal land and all in non-urban areas except for one town camp in Alice Springs.....the alcohol recommendations in the *Little Children are Sacred* report...are designed to work with and enhance the NTs existing legislative structure and that the Intervention measures unhelpfully cut across them' (2007, cited Edmunds, p. 19).

Another example involved the impact of the NTER at Wadeye, an early trial site. 'When a crisis erupted at the Wadeye trial site.....the Commonwealth government resorted to a more coercive approach characteristic of hierarchical or contract government...It has chosen not to develop housing through the legitimately elected Thamururr Regional Council, with whom it signed the COAG trial agreement thereby by-passing and potentially undermining the very indigenous governance structure it partnered with only four years ago, and to which it remains formally committed in the NT bilateral agreement (Gibbons evidence to Senate Estimates Committee Hearing, 2007, cited in Hunt 2007, p. 167).

Smith (2007) describes the proposed governance arrangements for the West Arnhem Shire that were developed slowly and after protracted negotiations that had begun in 2004. Their purpose was to plan implementation of a new local government shire covering the entire region. Following protracted on-the-ground negotiations over three years which progressively built support amongst relevant groups and communities, a new governance structure had been settled. In 2007, the Intervention unceremoniously aborted these arrangements, leaving behind a frustrated and cynical local community.

According to the ANAO, in 2007 75% of 257 managers surveyed in the ANAO Audit responded positively to the statement 'The Indigenous Affairs Arrangements (IAAs) have encouraged consultation with indigenous communities at the local and regional levels'. How effective were these conversations from the perspective of their interlocutors. The on-the-ground evidence is not positive. For example, in May 2010, DEEWR and FaHCSIA issued a draft indigenous economic strategy. Submissions were invited and consultations held with indigenous communities throughout Australia. The following are the reporter's notes on the consultations held in various remote centres in November 2010:

In Alice Springs: 'Approximately 22 (Indigenous) participants attended the workshop...People participated in both the questions and answer session and the table discussions but there was widespread criticism of the relevance of the Indigenous Economic Development Strategy to remote areas and the likelihood of anything changing on the ground.....There are no economic foundations in remote communities and this

needs to be acknowledged..There was widespread criticism that the strategy was homogenising and represented an urban western model...(it) needs to respond to the different circumstances, opportunities, economies and drivers in remote regional areas..There are so many economic strategies around that people are blasé about “just another plan”..The gap between the strategy and what is happening on the ground is very wide..There is a different sort of economy operating in remote areas. It’s not just a matter of transferring these into real jobs, they are real jobs but not recognised as such.’

In Broome: ‘Indigenous people need to be heard..this has not happened in the past and this is being repeated in the current process: not enough time....and doubt as to whether the draft strategy will properly take account of the feedback..The current ranger program should be expanded. It has been successful in raising confidence and helping people become work ready.’

In Cairns: ‘Many participants said that over the decades they had participated in similar discussions with Government and had raised the same issues....There was obvious frustration with the focus of this consultation...the Mayor of Yarrabah led a symbolic walkout at 2pm underlying the level of frustration at the meeting...The strategy was seen as meaningless without a means of implementing it through planning at the community level and there was scepticism that anything would change on the ground..There is a need to open up communication between government departments.’

In Port Lincoln: ‘There was a high level of scepticism regarding the draft Strategy as participants note that consecutive governments had consulted on similar policies in the past without any noticeable achievements to date...Government (should) be held accountable for not following through its own recommendations in the area of indigenous economic development in the past ..The one-size-fits-all approach is inappropriate – there is a need for regional level planning including local employers and business. Local communities both indigenous and non-indigenous need to work together to achieve solution’

‘In Karratha: ‘Real engagement means listening to indigenous people and not just telling them...it is difficult to engage with government.....previous feedback for policy development over the years has been ignored. There is no apparent correlation between what the Australian government proposes and what indigenous people want. A place-based approach is needed. Different communities have different needs and opportunities’

The funding framework: At a material level, W H Stanner’s indictment of the ‘great Australian silence’ about Indigenous Australians is reflected in an accumulation of deficits which dog present programs: ‘The list would include in no particular order, the pre-existing failure of educational outcomes, which lead to a largely non-literate indigenous citizenry, extreme housing shortages for personnel required to deliver government funded programmes and service across remote Australia; poor law enforcement and less than optimal levels of intellectual capital within government agencies relevant to remote service delivery.....The combined absence of social and physical infrastructure means that there is nothing for governments to graft mainstream services onto as happens elsewhere. Government appear to discount or underestimate the

importance of a pre-existing network of social, physical governance and business infrastructure...(Dillon and Westbury. p. 59).

One important source of equality in services for Australians is the periodic determinations of the Commonwealth Grants Commission (CGC). Via complex metrics, the CGC attempts to equalise funding for service provision around Australia. But there are several problems. First, determinations are based on average or mainstream needs. There are no special provisions or allowances for remedying acute backlogs such as those that exist in remote Australia. These were comprehensively documented by the CGC in its 2001 report (cited previously).

Second, while the Commission grants money on the basis of an assessment of needs in particular areas like housing, transport etc, there is no requirement for governments to spend their allocations in these areas. On the contrary. The States and Territories are free to spend the sums as they choose. On the contrary, the Commonwealth has 'defended the practice of making untied general purpose grants to (the states and local government) in recognition of their status as independent-elected democratic spheres of government. The fact that allocation of these grants was determined through an exercise which made reference to Aborigines in the measurement of disability factors in order to achieve some degree of fiscal equalisation....was clearly regarded as of secondary importance to the principle of general purpose funding' (Sanders, quoted Rowse, 2002). In addition, the Commonwealth operates a substantial number of special or supplementary programs. The States and Territories may use the existence of special Commonwealth programs as a ground for reducing their own allocations to Indigenous services.

There is now no aggregate assessment of the needs of remote Australia and no mechanism to check that total allocated funds match the rhetoric and proclaimed intentions of governments.

Take the Northern Territory CGC allocation. According to a NT Council of Social Services analysis, in 2009 twenty-five per cent of the total \$4 billion budget came in special purpose payments from Canberra, mostly for indigenous services. A further 55% represented a GST allocation by the CGC. The report demonstrates that in 2006-07 the Darwin government underspent its CGC allocation by \$542 million across a range of key social welfare indicators. This represented no less than 42% of the total CGC allocation (NTCOSS, October 2008; see also *The Australian*, 24 October 2009). The NTCOSS report commented: 'The spending priorities of the NT government exacerbate the differences in measures and senses of equality for low-income and disadvantaged people thereby contributing to the reduced life expectancy, poor health, violence and other differences that they are intended to address'.

Another issue concerns allocations to local government. These are determined on a per capita basis. 'The bizarre result is that jurisdictions like the Northern Territory with one sixth of the Australian land mass receive less in local government assistance than is notionally allocated to the population of Geelong' (Dillon and Westbury, p. 188).

A dedicated and periodic CGC review of remote Australia needs and circumstances would seem to be a prime requirement. The data collected for the Expenditure assessments (noted earlier) could provide a basis for such analyses.

Whole-of-government policy development - a case study of CDEP: Whole-of-government is difficult to achieve not just in on-the-ground delivery, but also in processes of cross-departmental policy development. Despite its popularity and considerable impact in remote Australia, at the same time as it is promulgating ambitious employment targets, the government is also curtailing CDEP. At its peak, CDEP engaged some 40 000 people. 'From 2005, CDEP has been systematically dismantled.....without much evidence, CDEP is being blamed for cost shifting by governments and for poor mainstream employment outcomes....as CDEP is dismantled people will be given the choice of mainstream work or welfare, on the proviso that work might require migration from home communities...This policy change fails to recognise Indigenous aspirations, cultures and life projects' (Altman, 2009; also Sanders).

Seized by budgetary concerns and a larger paradigm concerning the need to enhance pressures on unemployed people to seek work, the specific situation of citizens in remote Australia has seemingly received short shrift. What is to be done in remote communities where there is zero conventional economic infrastructure? For example, to illustrate the effectiveness of CDEP, Altman describes the experience of the Kuninjkku community in west Arnhem Land: 'For the majority of Aboriginal people in remote community's migration away from ancestral lands. and from extended kin networks will be neither an aspiration nor a solution. This in turn suggests that key institutions like CDEP that are currently being dismantled will need to be retained' (2009, p. 9). He notes the specific contributions of CDEP to the Kuninjkku economy: harvesting game for local consumption; producing art for sale in the national and global arts markets; being employed in paid provision of environmental services.

A review of CDEP by the Department of Finance in 2009 (Finance, 2009) found that the scheme had very limited success in fulfilling its work readiness charter and that it was almost impossible to assess its community development contribution. It also noted these goals are likely to conflict. By contrast, Jon Altman (2011) observes: 'The Australian government (is committed) to radically reform the CDEP because it is erroneously and negatively perceived to hamper engagement with the mainstream labour market rather than positively as an enabler of remote livelihood possibilities in the hybrid economy. It is after all the highly variable interactions between customary, state and market sectors of hybrid economies from place to place that give them distinction and potential comparative advantage'. These perspectives played no role in the formal assessments.

The changes to the CDEP scheme in the NT also indicate the difficulties government faces in managing policy development on a whole-of-government basis. The acute problems recently experienced in town camps may be in part a consequence of reductions in CDEP employment. This displaced population from outstations and other settlements. This was the intended result. The scheme was run down without town camp capacities being augmented. Moreover, there was no development of new town-based employment

opportunities and no or little opportunity for mainstream employment, despite the promise in the COAG charter to narrow substantially the job gap.

Finally, the governance requirements for CDEP have been criticised for a want of cultural appropriateness: 'A number of developments in the CDEP program may be viewed as quite deliberately coercive and, occasionally, quite unrealistic by the Aboriginal organisations involved. They may fundamentally change an Aboriginal organisation's relationship to its community members. These include requirements that no more than 50% of the Board should be CDEP participants, supervisors or managers. In some remote areas almost all of the able-bodied adult population is on CDEP, making this requirement impossible to meet without changing the very nature of the organisation. Programs also have to meet DEWR-determined targets for placement of CDEP participants in non-CDEP jobs...which in some contexts is almost impossible' (Hunt, 2007, p. 159).

The *Indigenous Economic Development Strategy 2011-2018*, released in November 2011 seems to sideline the potential of hybrid economic activities as a likely source of employment in remote locations. It declares that the source of primary opportunity in remote locations lies in the existing labour market and in 'removing barriers to genuine commercial ventures' (p. 16). Later it gestures to green economy opportunities: 'As investment in clean energy sources such as solar, gas and wind increases, the growth of the clean energy sector will also provide many new opportunities. Through the Indigenous Carbon Farming Fund ..the Australian government will support Indigenous Australians to take up opportunities in carbon abatement activities. This may include savanna fire management, feral camel management and environmental planting.....Indigenous Protected Areas, while delivering significant environmental benefits, will also support economic endeavours such as ecotourism' (p. 17).

Conclusion: The Indigenous Clearing House in FaHCSIA maintains a register which records current, pending and past evaluation studies. There are currently 572 entries. Taking recent and pending years, 128 refer to studies due in 2010, 63 to studies due in 2012 and 121 studies have no precise date attached to them. These seem an extraordinary number. The sector is being heavily researched. The ANAO has three pending program studies, all due in 2011. However, not one study involves the effectiveness of the government's own governance. Indeed, as noted earlier, the major comprehensive overview of this policy area concluded that 'on balance' present uses were due more to the complexity of the area than to failures of governance (Department of Finance, 2010). The evidence reviewed here suggests this finding is at odds with the facts.

8. Beyond Whole-Of-Government: Varieties of Place-Centred Governance

Professor Ian Marsh

The prime focus of this report is governance. Whole-of-government is the currently favoured administrative design. The previous section discussed the fundamental difficulties that afflict present whole-of-government arrangements. In this respect, Australian experience matches that of other jurisdictions, which have tried whole-of-government and found it wanting. In its place, a number of new or supplementary frameworks have been introduced to shift the locus of choice and decision away from highly centralised arrangements towards more localised contexts. This is reflected both in the *Total Place* initiatives in England and in the attention to place-based approaches in current OECD work, which in turn reflects developments in particular states. In both cases, the drastic cuts in public spending following the 2008 GFC have coloured implementation (e.g. Crowe, 2011). Also relevant are 'learning-by-doing' approaches which offer a new accountability framework to reconcile national concerns with local initiative and freedom of action. Finally, imaginative 'place-based' developments, covering the provision of otherwise threatened local services and the realisation of efficiencies through collaboration between authorities at the local level, are also evident in Australia. These are detailed in a comprehensive report on local government RAPAD, (2007). These varied governance design are reviewed in turn. A concluding section explores the consistency of these approaches with recent official reviews of the public sector in Australia.

1 The *Big Society* in Britain.

David Cameron's Conservative Party won a majority of seats in the general election of May 2010 but not sufficient to form a government. His subsequent coalition with the Liberal-Democrat Nick Clegg was based on a formal agreement of which *The Big Society* was a key part. The agreement foreshadowed a series of decentralising actions including: a review of local government finance; reform of the planning system; the end of ring-fenced grants and Comprehensive Area Assessments; the establishment of directly elected Mayors in 12 English cities; the creation of a 'general power of competence' for local authorities, and new powers for communities to takeover threatened local facilities and to bid to operate services that are now provided by public authorities; new powers to instigate local referendums; more scope for mutual's, cooperatives and social enterprises in running public services; and the establishment of a Big Society Bank.

In the first instance, these broad commitments have been implemented via changes in the remit of central departments and through several specific programs. Apart from the Prime Minister and his Deputy who (as party leaders) carry prime responsibility for what is the government's principal domestic initiative, three ministers are leading implementation:

the Secretary of State for Communities and Local Government, who heads the eponymous department (DCLG); the Minister for Decentralisation who has a broad remit for decentralisation measures across government and is located in DCLG²¹; in addition a Minister in the Cabinet Office has overall responsibility for *Big Society* measures particularly as they affect the civil service, social enterprises, volunteering etc and a division with specific responsibilities in these areas has been established in that department.

In so far as it concerns the effectiveness of public services, *The Big Society* draws on strong empirical grounds: as we will see, it is powerfully justified by political, social and fiscal evidence. However, as will be clear from earlier discussion of the miscarriage of our own whole-of-government efforts, it also presents profound challenges to existing highly centralised governance arrangements. This includes, not least: how to preserve central influence on overall economic and fiscal management; how to persuade central departments and ministers to let go authority; and how to defuse media driven crises and reframe political accountability. These may not be insuperable problems. But the designs that might reconcile more decentralised responsibilities with desired central capabilities have yet to be worked through. As will be discussed in a later section, there are putative solutions – for example, ‘learning-by-doing’ designs offer one novel solution (on page 84) – but in moving to a new more decentralised governance configuration it would be self-defeating to underestimate their scale.²²

Decentralised governance represents a deliberate shift away from the top-down pattern which was common to both the Thatcher-Major and Blair-Brown governments. In particular, the Blair-Brown years were marked by substantially increased investment in the public sector and the development of arrangements to enhance central control but in conjunction with whole-of-government delivery at the local level. Organisational arrangements to buttress central control and to drive service improvement included special units in the Cabinet Office to facilitate strategy development and to drive program change. In addition, the performance framework was extended with a plethora of targets

²¹ The now Minister, Greg Clark wrote a book in 2003 which he describes as making the case that ‘if central government is everywhere, then local government is nowhere’ (*Total Politics: Labour’s Command State*, London: Conservative Policy Unit, 2003).

²² For example, in their report on the Localism Bill the Communities and Local Government Select Committee pointed to the lack of a coherent framework which would indicate how the various measures might fit together: ‘It is surprising that we have not come across a coherent, comprehensive vision of how public services and local democracy will change in response to the Government’s agenda’ para 21, p. 13. Later they noted the somewhat paradoxical situation in which an agenda designed to promote decentralisation was introduced without any consultation with the interests who would implement it: ‘The views of those outside government about how the policy should be defined have not obviously been taken into account. We recommend that the government undertake a formal consultation to gather the views of local government and other stakeholders about what sort of localism *they* would like to see.’ Para 32. P.18

and measures. To facilitate joined-up working, Joint Funding Agreements were also introduced. There is an extensive literature on all these development (e.g. Barber, 2008; Marsh and Miller, 2012, esp. Chps. 3 and 4).

The profound limitations of this experience fanned interest in more radically decentralised approaches. An early move occurred in 2006 when the Lyons review of local government proposed attention to place based approaches. In subsequent years, within and beyond government, attention to alternatives flourished. Think tanks have been important contributors to the emerging agenda (e.g. ResPublica, 2008, 2009; Demos (Wind-Cowie), 2010 ; IPPR 2010 a, b, c, 2008; NESTA, 2011; The Young Foundation, 2010 ; the Institute for Government, 2011; new economics foundation, 2010). In addition, the House of Commons Public Administration Committee and the Communities and Local Government Committee have reviewed aspects of the new approach (HC 547, 2011). The number and variety of these sources indicates the vitality of this extra-mural policy discussion in the UK, a point which is relevant later when we consider the very limited extra-mural engagement in strategic policy development in Australia

The government has since taken several steps to advance its decentralising agenda. These include commitments to create elective Police Commissioners for each police area with responsibilities for overall strategy and public liaison, but in conjunction with Chief Constables. In addition, following a program introduced by Tony Blair, incentives for the creation of citizen or community-controlled schools (school academies) have been further developed and there are proposals to decentralise health administration – although these are now stalled as a result of political reactions. The government also abolished a variety of regional administrative structures.

But the most significant step so far involves the *Localism Bill* introduced in December 2010. The details will be reviewed shortly. But the general case for this approach was powerfully developed in the report *Total Place* published jointly by the Treasury and the Communities and Local Government Department (March 2010). The following quotes from this report document the basic case for change:

'Resource mapping demonstrated the complexity of funding streams. A pilot conducted over 2009 in 13 areas, which focused on social development spending, covered \$82 billion, approximately one-fifth of the total public spend in England. The per-capita spends ranged from L6000 in one area to just on L9000 in another. These differences reflect variations in relative deprivation. The pilots 'exposed the complexity of the 'internal wiring' of public service delivery. The large number of individual grants and poorly aligned objectives of similar services across different policy areas can limit the ability of delivery organisations to join up services around users.'

A citizen viewpoint shows how public services are often impersonal, fragmented and unnecessarily complex. For example, the Leicester and Lancashire survey identified almost 450 face-to-face service points, 65 separate call centres plus 75 web sites providing customer services. In Lewisham's the survey identified 120 projects or programs providing various forms of support to workless and unemployed people. The

Bradford review concluded: 'By adopting the culture of people and place rather than organisation and/or department at a central or local level we can significantly change the way public services are accessed and delivered.'

The system currently driving the delivery of public services is overly complex. Cross organisational working at the local level requires governance and accountability regimes which align the approaches of different auditors, inspectors, managers and national and local political leaders. Template protocols for pooled budgets and other joint working arrangements are being developed. Local authorities currently report performance against 188 indicators. For frontline services one authority reported against 706 measures and another against 930 measures! Reporting can also be on different metrics. For example the Police Department and a Youth Offending Team in Bradford measured the number of first time offenders differently – but both organisations need to work together to deliver outcomes.

Individuals and families with complex needs impose significant costs in areas but in most cases they are currently not tackled through targeted or preventative activities. The pilots demonstrated that much current public spending was focused on consequences not the causes of complex problems. Other research demonstrated the very substantial costs (and the potential savings) in moving families from 'chaotic' (£49,425 per child) to 'barely coping' (£6527 per child) and then to 'coping categories' (£643 per child). The pilots indicated that in order to target services, the involvement of a wide range of organisations was needed to 'wrap' services around the individual. Sharing data proved to be a particular problem. For example, one Family Intervention Project involved a single case worker who helped families with multiple problems to get the help they needed. The problems encountered included crime, anti-social behaviour, attendance/behaviour problems and evictions. Treated separately, costs were estimated to be ten-times larger' (*Total Place*, various pages).

The purpose of the Localism Bill was to 'devolve greater powers to councils and neighbourhoods and give local communities control over housing and planning decisions'.

The core elements of the Localism Bill were:

- **Regional Strategies:** Hitherto a variety of top down and Whitehall based targets and procedures have framed local decision making. These are abolished.
- **General Power of Competence:** Local authorities are empowered to do anything that is not specifically prohibited by law.
- **Communities' right to buy:** The Bill gives local communities the power to bid for local assets threatened with closure and to bid for the ownership and management of community assets. In addition, community organisations will have greater opportunities to bid for assets where these are essential or them to deliver existing or new services. Public services will also be encouraged to seek offers from staff who want to take over and run services constituted as employee-led mutuals.
- **Neighbourhood plans:** The Bill reforms the planning system by extending the rights of communities in planning processes.

- **Spending:** Much of the spending provided directly by central government via general grants remained ring-fenced. Most of these restrictions are to be progressively abolished. The move to community budgets which enable local areas to pool funds from different programs is also foreshadowed to be completed by 2013.
- **Community Right to Challenge:** The Bill incorporates a right for communities to challenge to run local authority services
- **Participation:** Opportunities for local referenda are extended. The Bill introduces elected Mayors for the ten largest English cities.

Two Parliamentary Committees have since held extensive hearings on this Bill (Public Bill Committee, January to March 2011; Communities and Local Government Committee, HC547, 7 June 2011). Evidence to both committees covered issues which were seen to remain unresolved despite the government's stated intentions. These included:

- ***Bundled funds and Community Budgets:*** 'Community Budgets' covering services for at risk families are currently being trialed in 16 areas and being considered for a further 34. To work successfully significant funds that now flow via siloed departmentally based programs, would need to be bundled into single grant and devolved to an authority with appropriate governance capacities and public legitimacy. *Total Place* analyses indicated that approximately 70% of public funding for individual services came from three departments – Health, Works and Pensions and Education. The foreshadowed trials will only involve about 10% of the total funds. Further, since the change of government other new measures would seem to undercut the ability to bundle funds at the lowest appropriate spatial level. For example, the Department of Works and Pensions has reorganised welfare-to-work into a single Work Program, which is being administered centrally on the basis of regional contracts. Local government has been excluded from direct participation in these arrangements, thus complicating the development of context specific employment and developmental programs at the local level (see later references to OECD reports on the desirability of creating at appropriate spatial levels whole-system employment and development capabilities).
- ***The 'right to challenge'.*** Charities, social enterprises and co-operatives (but not so far for-profit providers) are accorded the opportunity to challenge to operate services now channelled through local government. For example, this might cover offender and community services, social care etc. This builds on a consultation Green Paper issued in October 2010 (*Building a stronger civil society*) in which the Government foreshadowed a much expanded scope for non-government bodies to bid for the delivery of public services. A White Paper had been promised for February 2011 however it has been delayed - according to press reports as a result of differences within the coalition about the relative emphasis on community involvement versus for-profit providers. The tensions surrounding choices between local and for-profit provision were succinctly expressed in evidence to the Communities and Local Government Committee by *Voice4Change England*: 'Whilst

localism and devolution of power to communities can support public service reform, it is not a given that public service reform supports localism. If proposals on opening up public services are not managed properly then it is not local businesses or charities that will take over services but large corporations'. The government is committed to ensuring 'social value in the local area' is taken into account in benefit-cost calculations but has yet to define how this will be valued. A metric for calculating 'local social value' will also be critical to facilitate evaluation.

- Localism requires new analytic tools to determine appropriate spatial scales and to properly value 'community development' and on-going innovation. The government has yet to develop a methodology that would allow an analysis of the relative merits of different spatial levels of service provision or one to assess the value of 'community development' or on-going innovation.
- For example, there is no automatic coincidence between a scale that maximises economic efficiency, a scale that is most likely to encourage innovation and a scale that is most likely to encourage economic and community development and job creation. Spatial levels for employment, economic development, infrastructure, social development, and policing, schooling and primary health care do not automatically coincide (see later discussion of this point in relation to collaboration between local authorities in Australia, pp. 88-89)
- Moreover, the government is committed to ensuring that 'social value in the local area' is taken into account but has yet to define how this will be accomplished. Similarly, it has not developed an approach that would allow potential for innovation, which is a key element of the case for change, to be incorporated in analyses.²³ One approach may promise an immediate benefit but another may offer one that is unfolding and perhaps more uncertain. A fair metric or framework to evaluate such alternatives is required. This also spills into accountability processes since any measures would be pertinent both at the both initiation and evaluation ends of the exercise.
- *Freer Use of Grant Funds:* The government has rolled more funds into Area-Based Grants for local authorities and proposes to add more as the program develops. The aim is to create more flexibility in how the money is spent by a community – but what if the local decision is to divert funds to other purposes? Take Supporting People's Grants. These provide housing-related support for vulnerable adults. Different stakeholders reacted differently to the government's proposal to return this money to general funds. Local government representatives welcomed it. NGOs representing the individuals involved were much more guarded. The government has not explained how it will ensure equity for the most marginalised or most

²³ Schumpeter's paradox of competition is pertinent: 'A system that at every point of time fully utilises its possibilities to the best advantage may yet in the long run be inferior to a system that does so at no given point in time, because the latter's failure to do so may be a condition for the level or speed of long run performance'.

needy or least articulate. Minimum national standards and enhanced transparency and scrutiny capabilities may be a way – but they have yet to be enacted.

- *Political accountability*: The Bill envisages devolving wider responsibility for public service provision to local levels but does not address issues of political accountability. Despite the government rhetoric, there are already gross examples of governmental reaction under media pressure to highly local issues.
- *Coordination at local levels*: The relationship between the various components of localism remains ill-defined. For example, the government's proposed reform for policing and schools devolve responsibility to other bodies with no incentives to link activities at the community level. Where does the expansion of school academies, GP commissioning and elected police commissioners leave the role of local government? A more diverse range of elected authorities and autonomous service provider complicates the task of ensuring approaches are strategic or joined up at the community level.

In evidence to the Public Administration Select Committee, Professor George Jones underlined the depth of the challenge that decentralisation presents to the dominant centralised ethos:

'Centralism pervades the legislation on the localism proposals.The Local Government Association has calculated there are at least 142 order and regulation-making provisions, in addition to the 405 pages in the Act, with its 208 clauses and 25 schedules. One foresees the forthcoming Act being accompanied by panoply of regulations and orders, as well as by almost endless pages of guidance, as the centre seeks to determine what should be done locally, rather than the local authority which knows local conditions and is accountable locally.

14. It is as if central government knows no other way to act than through command and control enforcing detailed prescription. Yet localism will develop only if centralism in the culture and processes of central government is effectively challenged.

15. Centralism pervades central government in forming its attitudes and determining its procedures and practices. It draws strength from the culture of the various departments of central government, which do not trust local authorities to run their own affairs and know no other way to deal with them than through regulation and detailed guidance designed to ensure they act in ways determined by the centre. Departmental attitudes are reinforced by ministers who have their own views as to how local authorities should act and wish to require them to act in that way.

17. Past experience suggests that ministerial words calling for localism do not translate into localism in practice because of the dominance of centralism in central government. Michael Heseltine, the Secretary of State in 1979, announced a bonfire of 300 controls, but the centralist culture remained unchallenged and over

time new controls were introduced, more than replacing those abolished. The Labour government often set out policies for decentralization to local authorities but the reality was detailed control in targets, inspection, prescriptions and guidance. There is no better illustration of this approach than the at least twelve regulations, five directions and nearly two hundred pages of guidance specifying exactly how local authorities should introduce new political structures, virtually all of which will remain in force after the Localism Bill becomes law.

18. Unless challenged the culture of centralism will prevent localism becoming more than words from a Minister or in a White Paper as has happened in the past. If the Government wants, as it asserts, to see localism developed in practice, it must recognise the need for changes in the attitudes and practice of the departments of central government. Words by themselves will not be sufficient. Measures are required to entrench localism

Ideas advanced in the Bill hearings may have wider application. One involved the creation Public Service Boards, which could be established at an appropriate opportunity-focused spatial level. They could be composed of existing elected council members and nominated members representing both other community bodies and central government agencies and departments. Their role would be to allocate resources and commission services from other public bodies. These Boards could also be accorded the right to bid to manage resources that are now allocated by central or state departments on a regionalised or local basis. For example, unemployment, policing, welfare and educational programs might be opened to bids to bundle money and reassign resources according to local priorities and needs. This would require the creation of a separate authority both to adjudicate such bids and to ensure accountability.

The British initiatives involve decentralising proposals in a familiar political culture and institutional setting. Another approach is explored in a number of current and recent OECD reports. These suggest that, in further developing effectiveness in the provision of public services, place based approaches are the primary candidate. These analyses are summarised in the next section.

2. Place-based Approaches in Recent OECD Work.

The extent and variety of place-based approaches in recent OECD studies indicate the emergent appeal of this framework. In the quest for sustainable economic development, jobs and the effective provision of public services, the establishment of context-specific capabilities are seen to be primary. They represent the next move in the development of public management. Place-based approaches are suggested for a variety of contexts including economic development and innovation, social development, city and rural development, unemployment, deprived areas and high needs contexts. This is indicated in the following list of recent studies (with additional studies listed in the footnote):

- Managing Accountability and Flexibility in Labour Market Policy(2011)
- Breaking out of Policy Silos: Doing more with less (2010)

- Strategies to Improve Rural Service Delivery (2010)
- Regions Matter: Economic Recovery, Innovation and Sustainable Growth (2009)
- How Regions Grow: Trends and Analysis (2009)
- Linking Regions and Central Government: Contracts for Regional Development (2007)
- Governing Regional Development Policy: The Use of Indicators (2009)
- Flexible Policy for More and Better Jobs (2009)
- Linking Regions and Central Government: Contracts for Regional Development (2007)
- The New Rural paradigm: Policies and Governance (2006)²⁴

One proposition is common to these reports: whilst it is paramount to get institutions right at the local or regional level, there is no one-size-fits-all solution. According to one OECD analyst: 'In many countries, the regional/central vertical governance gap is significant: the centre faces information gaps and the regions confront capacity gaps. Moreover, it makes little sense to speak of 'centralisation' or decentralisation in general – the details are always the key' (William Coleman, *Presentation to Australian MPs*, October, 2010). Historic, institutional and local characteristics should shape governance designs. For example, in relation to development, the emphasis is on differentiated strategies and organisational designs which can detect and then exploit existing or potential niches or opportunities. Implicit in all of the foregoing is the key role of local engagement and empowerment.

In designing place-based arrangements, the OECD has developed two frameworks. The first sets out systematically the seven core dimensions of a governance system: information; capacity; funding; policy; administration; objectives; accountability (Mind the Gaps – A Tool for Diagnosis, see Table 1 following). These individual elements are defined as follows (Chairbit, 2011 a and b):

'i. *An information gap* is characterised by information asymmetries between levels of government when designing, implementing and delivering public policies. Sometimes the information gap results from strategic behaviours of public actors who may prefer not to reveal too clearly their strengths and weaknesses, especially if allocation of responsibility is associated with conditional granting. However, it is often the case that the very

²⁴ Delivering Local Development through a Comprehensive Approach to Strategy, System and Leadership – Highlighting the Case of Derry-Londonderry, Northern Ireland (2011); New Approaches to Rural Policy: lesson for Around the World (2005); The New Rural Paradigm, Policies and Governance (2006); OECD Territorial Reviews, France (2006); Job Rich Growth: Strategies for Local Employment, Skills Development and Social Protection (2011); OECD Science, Technology and Industry Outlook (2010)

information about territorial specificities is not perceived by the central decision maker whilst sub national actors may be ignorant about capital objectives and strategies.

ii. *The capacity challenge* arises when there is a lack of human, knowledge or infrastructural resources available to carry out tasks, regardless of the level of government (even if, in general sub national governments are considered to be suffering more from such difficulties than central government).

iii. *The fiscal gap* is represented by the difference between territorial revenues and the required expenditures to meet local responsibilities and implement appropriate development strategies. In a more dynamic perspective, fiscal difficulties also include mismatch between budget practices and policy needs: in the absence of multi-annual budget practices for example, local authorities may face uncertainty in engaging in appropriate spending, and/or face a lack of flexibility in spending despite its appropriateness in uncertain contexts. Too strict earmarking of grants may also impede appropriate fungibility of resources and limit ability to deliver adapted policies.

iv. *The policy challenge* results when line ministries take a purely vertical approach to be implemented at the territorial level. By contrast, local authorities are best to customise complementarities between policy fields and concretise cross-sectional approaches. Limited coordination among line ministries may provoke a heavy administrative burden, different timing and agenda in managing correlated actions etc. It can even lead to strong inconsistencies when objectives of sectoral policy-makers are contradictory.

v. *The administrative gap* occurs when the administrative scale for policy making, in terms of spending as well as strategic planning, is not in line with relevant functional areas. A very common case concerns municipal fragmentation which can lead jurisdictions to initiate ineffective public action by not benefitting from economies of scale. Some specific policies also require very specific and often naturally fixed, boundaries.

vi. *The objective gap* refers to different rationalities from national and sub-national policy-makers which create obstacles for adopting convergent strategies. Common examples arise from political and departmental purposes. Divergences across levels of government can be used for 'cornering' the debate instead of serving common purposes. A local mayor may prefer to serve constituents perceived aspirations instead of aligning decisions to national or state wide objectives which may be perceived as contradictory.

vii. *The accountability challenge* results from the difficulty to ensure transparency of practices across different constituencies and levels of government. It also concern possible integrity challenges of policy makers involved in the management of public investment.'

These 'gaps' together constitute the architecture that is essential for effective place designs. In the absence of appropriate arrangements in any one building block, the entire design of place governance is put at risk. In turn, this emphasises the significance of a diagnostic phase in which local conditions, needs and circumstances need to be clearly identified.

The second framework, Bridging the Coordination and Capacity Gaps (Table 2), illustrates the approaches adopted in various states to overcome coordination and capacity gaps. A particular state might use various combinations of these instruments, depending on what it seeks to achieve through decentralisation and what coordination and capacity gaps are relevant. The key point again is the variety of approaches that are evident around OECD states and the specifically 'local' character of any particular design.

Because of the importance of employment as the key to social development, particularly in deprived areas, economic development is a particular concern. This involves an initial strategic focus on economic opportunities. There is however no unambiguous empirical evidence concerning drivers of growth at regional levels or indeed about the propensity of different types of regions to grow. 'A large number of urban regions grow faster than the average rural region, but many rural regions grow faster than the urban average. Hence opportunities for growth exist in all types of regions..... Human capital and innovation are positively correlated with growth and infrastructure influences growth only when human capital and innovation are present..... Agglomeration also influences growth.' The presentation noted that these findings omit important interaction effects and that many policy interventions can have unintended effects if undertaken in isolation. 'If this implies a constraint in terms of policy coherence, it also points to opportunities arising from policy complementarities' (Seminar for Visiting Australian MPs. OECD, 8 October 2010)

Mind the Gaps : a Tool for a Diagnosis

Administrative gap	“Mismatch” between functional areas and administrative boundaries => Need for instruments for reaching “effective size”
Information gap	Asymmetries of information (quantity, quality, type) between different stakeholders, either voluntary or not => Need for instruments for revealing & sharing information
Policy gap	Sectoral fragmentation across ministries and agencies => Need for mechanisms to create multidimensional/systemic approaches, and to exercise political leadership and commitment.
Capacity gap	Insufficient scientific, technical, infrastructural capacity of local actors => Need for instruments to build capacity
Funding gap	Unstable or insufficient revenues undermining effective implementation of responsibilities at subnational level or for crossing policies => Need for shared financing mechanisms
Objective gap	Different rationalities creating obstacles for adopting convergent targets => Need for instruments to align objectives
Accountability gap	Difficulty to ensure the transparency of practices across the different constituencies => Need for institutional quality instruments

Bridge the coordination and capacity gaps

Contracts	France, Italy, European Union, Canada
Performance Measurement & Transparent evaluation	Norway , United Kingdom, United States
Grants, co-funding agreements	All countries: general purpose grants v. earmarked, equalisation mechanisms
Strategic planning requirements, Multi-annual budget	Along with investment contracts
Inter-municipal coordination	Mergers (Denmark, Japan) v. inter-municipal cooperation (Spain, France, Brazil etc.)
Inter-sectoral collaboration	Finland, France ... One ministry v. interministerial mechanisms
Agencies	United Kingdom, Canada, Chile
Experimentation policies	Sweden, United States, Finland
Legal mechanisms and standard settings	All countries, but more or less implemented
Citizens' participation	A question of degree
Private sector participation	From strategy design... to vested interest
Institutional capacity indicators	Italy for sub-national level

In relation to rural and remote regions, the following are suggested as key messages from recent surveys and conferences:

- Investment priorities for rural development – uniformity in service delivery is not an option. Differences in opportunities and characteristics between regions suggest investment requirements will differ. Provision should build back from strategies that are devised at regional levels.
- Innovative rural regions: human capital development, financial support and ICT are all important – no less critical is how take-up is embedded and orchestrated (see later discussion of Regional Innovation Systems).
- Innovative service delivery: meeting the challenges of rural regions – Service delivery is a key to rural development. National minimum standards may apply, but modes of delivery can vary widely between regions.

The work on rural development has culminated in what the OECD describes as a paradigm shift in regional policy with a switch from compensatory and redistributive approaches to arrangements that can identify and capitalise on opportunities on a progressively unfolding basis:

This attention to economic opportunities is reinforced in literatures on regional innovation systems to which we now turn.

3. Regional Innovation Systems

Innovation shifts the focus of economic strategy from markets to capabilities. Fully assimilated, this represents another fundamental paradigm shift. The concept of

regional innovation is the heart of this new frame. This is because capabilities develop at regional not economy-wide levels. This approach has gained in currency in Australia as a response to at least three developments:

- A slackening of productivity growth in Australia from the late 1990s which persisted into the early twenty-first century.
- Increased intensity of international competitiveness in a globalising economy;
- A switch in focus from the development of economy-wide market structures to the development of region-specific capabilities;

A region is the key unit for research and action because capabilities develop only at this spatial level. Capabilities which are inherently 'local' in character create competitive advantages. This involves specialised resources, skills, institutions and locations which share in common social and cultural values, competencies and learning processes (surveyed in Asheim and Gertler, 2005; also Lipsey, Carlaw and Bekar, 2005). They also include institutional endowments, built structures, knowledge and skills (e.g. see West 2009, for an exposition of this approach in the context of regional Tasmania). There is an extensive literature on the contribution of cluster strategies to this outcome (Porter, 1998; Dunning, 1997).

In contrast to a top-down 'picking winners' approach, regional development occurs as localised capabilities are mobilised. Regions gain competitive advantage by mobilising all their assets including institutional and governmental ones. For example, this might involve infrastructure (including education, communications, logistics etc) or commercial capabilities (such as finance). Where gaps are identified, appropriate infrastructure needs to be sought. Key platforms to develop these outcomes include: clustering and broader network collaborations, often involving leadership by industry or community associations. The Australian wine industry provides a classic example of this process (Smith and Marsh, 2009).

The outcome is a Regional Innovation Strategy (RIS), which becomes a platform for building a provisional consensus around the steps that need to be taken to realise opportunities (e.g. high-potential sectors like culture, tourism, environmental management etc). For example, specific examples in the Tasmanian context include Coal River Valley development; the North West Regional Alliance; and the Dorset Pilot.²⁵

Where capabilities depend on distributed knowledge (as distinct from that wholly developed internally by an individual commercial actor), RIS analysis is particularly

²⁵ West Jonathan, 2009, *An economic strategy for Tasmania*, University of Tasmania: Australian Innovation Research Centre

concerned with the structures that are required to develop and disseminate appropriate or context-specific knowledge.

Social conditions are another key element. Innovation and regional development require an assessment of the population and settlement patterns most likely to support development in a particular location and the social infrastructure required to support such populations.

4. EU 'learning-by-doing', experimentalist or pragmatist governance:

The EU is a complex multi-level governance design for which it is hard to find precedents. In areas where common action has been agreed the diversity of approaches and structures between member states ruled out top-down or one-size-fits-all designs. So how could action be co-ordinated? In answering this latter question, the EU has introduced an approach which may have applications to co-ordinated action between and within levels of government in Australia, specifically in the context of remote Australia.

The EU approach replaces principal-agent designs with a 'learning-by-doing' or pragmatist one (Sabel and Zeitlin, 2010). The former design continues to dominate public policy thinking in Australia (e.g. Marsh and Spies-Butcher, 2009). A central tenet of principal-agent theory is that the principal can determine desired outcomes in advance. Pre-determined performance metrics allow the principal to hold the agent accountable for outcomes, thus obviating shirking, opportunism or other deceptive behaviour on the part of the agent. This has been widely applied in public sector settings in Australia, for example in a variety of human services contracts. But the diversity of conditions across the country has required adaptation. Hence in equalising comparisons the centre adds in a variety of qualifying factors that it considers appropriate. Influenced by this thinking, elaborate contractual, co-production, outsourcing and reporting structures have developed in a variety of fields (e.g. surveyed in Productivity Commission, 2010)

At least three basic features of human service (and other) contexts undercut advance determination of outcomes by a centrally located principal:

- First, the knowledge guiding the decisions of both principals and agents is provisional.

Both are operating with corrigible information and judgements. Unintended consequences, ambiguity and difference abound. It is impossible to devise programs from first principles that survive the effort to realise them. In the case of the principal, this involves judgements about attainable outcomes and, in the case of agents this involves judgements about the practices most likely to enhance performance in the pursuit of these outcomes.

- Second, providers have information that is essential to adapting performance outcomes

for the overall system that recognise best practice. The principal is setting outcomes that need to reconcile efficiency and quality in a way that minimises incentives for provider gamesmanship, creates incentives for efficiency and that does so in a way that also promotes quality services for clients. Any one of the outcomes is complex. Their achievement in combination is a daunting challenge. Only the providers have information that is relevant to making this latter judgement. The principal needs routine access to provider information in order to refine and develop her understanding of desired outcomes in the light of provider and client experience.

- *Third, providers' own knowledge of how to attain quality services for clients is varied and developing.* Providers own knowledge of how best to serve clients – and how best to establish organisational and governance routines that reinforce these outcomes, is itself corrigible and experimental. Different organisations will attain different outcomes and it will not be immediately apparent which represents the best achievement of not necessarily consistent purposes. Dynamic efficiency through the whole system thus requires the routine collection, assessment and dissemination of performance information amongst providers.

An 'experimentalist' or pragmatist approach represents an alternative to these architectures – but one that promises to shift exchanges from a primarily punitive to a primarily learning basis (Sabel 2006, 2007). This builds on earlier work on continuous performance improvement and 'learning by doing' – an approach to dynamic efficiency that was developed by the Toyota Motor Company in its management of buyer-supplier relationships (Sabel 1992). Here is how this might be translated to public policy settings: 'General goals or designs are set provisionally by the highest level – parliament, a regulatory authority, or the relevant corporate executives . . . then the provisional goals are revised in the light of proposals by lower level units responsible for executing key aspects of the overall task (Sabel, 2006:11).

Sabel proposes to recast fundamentally the terms of the accountability relationship between principals and agents:

'Compliance or accountability in the principal agent sense of rule following is impossible. There are in effect no fixed rules, or, what comes to the same thing, a key rule is to continuously evaluate possible changes in the rules. *Accountability thus requires not comparison of performance to a goal or rule, but reason giving: actors in the new institutions are called upon to explain their use of the autonomy they are accorded in pursuing the corrigible goals* (our italics). These accounts enable evaluation of their choices in the light of explanations provided by actors in similar circumstances making different ones and vice versa.'

Sabel's approach also alters the frequency and the substance of the exchange between principals and agents:

‘To encourage this kind of ongoing mutual reflection monitoring is continuous, or nearly so, rather than occasional or episodic: and it is less concerned with outcome measures than with diagnostic information – information that can redirect the course of ‘treatment’.

Finally and critically, it also alters the patterning of carrots and sticks. Sabel envisages that agents who fail to perform to best-practice levels will be first given the chance to improve via an exchange of knowledge about their potential to improve. ‘When failure to follow the rule in principal-agent systems is, in theory, immediately penalised, in pragmatist systems non-compliance in the sense of inability or unwillingness to improve or otherwise respond to change at an acceptable rate triggers . . . increased capacity enhancing assistance from the oversight authority. Repeated failure to respond, even with assistance, is, however, likely to bring about the dissolution of the offending unit’ (Sabel 2006:14).

This broad approach has been widely tested in a variety of human services and other public policy settings in the United States including teaching disadvantaged students (Liebman and Sabel 2003); defence contracting (Dorf and Sabel 1998:332), environmental regulation (Dorf and Sabel 1998:373), nuclear regulatory safety (Dorf and Sabel 1998:370), policing in deprived neighbourhoods (Dorf and Sabel 1998:327), occupational health and safety (Dorf and Sabel 1998:358) etc.

Pragmatist or experimental principles define an approach to the management of inter-governmental and purchaser-provider relations wholly different from the structure that is now dominant in federal and state jurisdictions. Earlier sections explored the fit between the present whole-of-government architecture and outcomes in remote Australia. Empirical evidence concerning the structural impedimenta to these arrangements was also reviewed. The alternative ‘experimentalist’ or pragmatist approach to system design avoids these difficulties. It builds on a broad structure of inter-governmental and purchaser-provider relationship, but places exchange in a context that emphasises learning by both parties. This approach merits consideration not only because it would encourage continuous performance improvement but also because it promises to transcend difficulties that have consistently worked against reform.

5. Australian Local Government Practice.

The foregoing discussion focused on regions as the relevant spatial unit and involved governance models drawn from international practice. Parallel experiments and possibilities are also evident in Australian local government practice. The models that have been developed here have clear implications for imagining various possible forms of regional governance. These local government

arrangements are comprehensively explored in a report of the collaborative practices of shires in remote Queensland (Dollery and Johnson, 2007).

The report documents the many imaginative responses of individual Councils to preserve community amenities and to reconcile local responsiveness with efficient resource management and relationships with other levels of government. The focus of the report is the Remote Area Planning and Development Board (RAPAD) which is a not-for-profit ASIC listed company involving a collaboration of 11 councils in Western Queensland. According to the report: 'The RAPAD mission is to "plan, facilitate and encourage sustainable growth for the future of Outback Queensland....It intends achieving this by:

- Being future oriented
- Being a consultative advocate and lobbyist
- Proactively working and networking with all shires as well as private and public sector organisations
- Adding value to individual shires and other regional organisations in a non-duplicative manner
- Coordinating and facilitating the provision of relevant research to their region
- Supporting all miners and their respective communities"

Its core concerns are transport, regional planning, capacity building, natural resource management, service development, technology and communications, development of sustainable industries and investment attraction.

The report documents the many imaginative roles that are being undertaken by the individual councils to ensure community amenities are maintained at desired standards: 'In the absence of any other feasible service providers, local councils must provide a large range of essentials services. For instance, there are not many councils in Australia that provide the postal services (as in Barcoo and Ilfracombe); offer banking facilities (Blackall, Boulia, Tambo and Winton); a café (as in Boulia, Isisford and Winton); undertaker services (Barcoo, Blackall, Boulia, Ilfracombe and Tambo); real estate agency activities (Diamantina); operate general stores (Ilfracombe and Isisford); provide freight services (Isisford); or operate the local newspaper (Blackall)...In addition, each council provides extensive support to the numerous community and sporting organisations in their boundaries'(p. 104)

Other services include:

‘..Aramac Shire either directly or indirectly provides...a bakery, Home and Community Care programs, and a rural transaction centre. Similarly, Barcaldine Shire delivers a number of state government programs including

rural family support, 60 and Better, Home Assist Secure and a HACC program.....BARCO Shire Council provides the Jundah Post Office....the Council provides a bus service and a 4WD vehicle for the three schools in the Shire; the Council provided land for the Windorah Medical Clinic; it provided land for state community housing; it has undertaker services and provides burial services.....Barcoo Shire has set up a bursary system for residents undertaking tertiary, diploma or trade qualifications.....Blackall Shire assist its residents by providing an 'in-store' Westpac Bank facility in the Council office and it acts as a 'developer' baby providing an industrial estate as well as residential land for sale.....(it) runs an extensive local economic development program....an airport (with 3 commercial flights a week); SBS radio transmission; youth development services, including employment initiatives' (p 105-106).

Earlier, the report discussed at least seven ways common services might be provided by collaboration between local communities:

- i.. Ad hoc resource sharing: 'The most limited and flexible alternative to municipal amalgamation resides in voluntary arrangements between geographically adjacent councils to share resources on an ad hoc basis' (p. 23). The examples cited include skilled staff (environmental experts), capital equipment, IT systems, domestic garbage removal and disposal.
- ii. Regional organisations of councils: These are 'voluntary groupings of spatially adjacent councils....ROCs are usually governed by a Board consisting of two members from constituent municipalities' (p. 24). The authors comment that continuing engagement can provide wider opportunities to build understanding and identify new and emergent opportunities for collaboration that might have occurred to no individual council acting alone.
- iii. Area integration or joint board models: This would involve 'a shared administration and operations overseen by a joint board of elected councillor's forme ach of the member municipalities. Member councils retina their political independence, thus preserving local democracy, whilst simultaneously merging administrative staff and resources into a single enlarged bureau (p. 24-25).
- iv. Virtual local government: This model of local government 'would consist of two main elements. Firstly relatively small councils would encompass ejected councillors and a small permanent secretariat. They would decide on questions of policy formulation and monitor serviced delivery to determine its effectiveness...Several small adjacent councils would share a common administrative structure or "shared services centre" that would provide the necessary

administrative capacity to undertake the policies decided upon by individual councils. Service delivery could be contracted out' (p.25-26).

v. Agency models: In this model councils would occupy a 'principal-agent' relationship to state governments. 'Municipalities would surrender completely operational control of these services they direct, but at the same time still enjoy political autonomy as elected bodies for a spatially defined jurisdiction. Thus all service functions would be run by state government employees with state government funds....Elected councils would act as advisory bodies to these state agencies charged with determining the specific mix of services over their particular geographical jurisdictions.

vi. Amalgamations: This is noted as the most extreme form of centralisation.

6. Implications

The foregoing suggests the timeliness of a shift of governance towards place based or regional spatial levels. This is the next logical step in the development of public sector designs to strengthen economic and social development. As noted earlier, this is wholly consistent with the vision for public sector reform advanced in a number of recent official reports, for example at the federal level, in the Moran Review (*Ahead of the Game, Blueprint for the Reform of Australian Government Administration*, March 2010); and at a state level, in the Western Australian Economic Audit Committee Report (*Putting the Public First, Partnering with the Community and Business to Deliver Outcomes*, October 2009). This latter report specifically foreshadows the replacement of 'agencies operating in silos' with more decentralised even individualised arrangements. Both these reports underline the profound challenge to centralised processes, cultures and organisational and budgetary protocols that are involved in the next iteration of public sector reform. But, as British experience attests, the difficulties in translating aspirations into practice remain formidable. Many hurdles remain to be surmounted if governance in remote Australia is to shift to a place based pattern.

9. Framing the Remote Australia Challenge: What Narratives and Contexts are Pertinent?

Centralised and top-down approaches currently dominate Australian policy thinking, despite the many gestures to more joined-up approaches and to the engagement of local communities. Moreover, most policy discussion about remote Australia focuses only on the circumstances of Indigenous Australians. Both these propositions are questionable. Also questionable is a key finding of the Department of Finance Strategy Review (February 2010) which represents the most recent comprehensive assessment of government programs. According to this review, the basic challenge in Indigenous Affairs is one of delivery (p. 298). This present report reaches a wholly contrary conclusion. It suggests the basic challenge is strategic and conceptual. The basic challenge concerns the basic paradigm through which policy design is conceived. This is fundamentally a question of strategy. How well equipped is the policy system for such a conversation?

This issue is explored in the following sections. The first section discusses the framework and approach currently adopted to develop overall strategies. A second section looks at the NTER not as it was politically constructed (as an appropriate response to a 'crisis'), but rather as symptomatic of failed governance capabilities at the strategic or agenda entry or paradigm end of the policy cycle. The third section asks if the governance pathologies evident in remote Australia are like those that have caused failed states. A final section explores the platforms that might mediate a richer strategic conversation.

The present strategic framework

The most recent comprehensive statement of strategy was embodied in the 2008 COAG agreement on closing the gap in outcomes for Indigenous Australians. It is worth restating the six ambitious targets that were endorsed:

- Closing the gap in life expectancy within a generation
- Halving the gap in mortality rates for indigenous children under five within a decade
- Ensuring all indigenous four year olds in remote communities have access to early childhood education within five years

- Halving the gap for Indigenous students in reading, writing and numeracy within a decade.
- Halving the gap for Indigenous students in Year 12 attainment or equivalent attainment rates by 2020
- Halving the gap in employment outcomes between Indigenous and non-Indigenous Australians within a decade.

The supporting notes underline the magnitude of the challenge. For example the gap in life expectancy is to be closed within 25 years. 'This equates to an annual improvement in life expectancy of 0.5 years for males and 0.4 years for females...Gains of this magnitude have taken around 60 years to achieve in the Australian population as a whole' (Intergovernmental Agreement on Federal Financial relations, p. G-84). On employment too, Altman shows that the espoused goals are deeply problematic. 'Research shows that between 1996 and 2006 less than 50 000 new jobs were created for Indigenous Australians. To halve the employment gap by 2016 will require between 71 000 and 106 000 new jobs, an extremely ambitious target given that only about 140 000 indigenous people are currently employed. There are enormous variations in projected indigenous jobs required depending on the region of residence...The chance of finding mainstream employment in remote Australia is limited owing to geographic isolation' (p.8). In the absence of employment, 'closing gaps and ending disadvantage' is a mischievous fiction. Altman notes dryly: 'Goals expressed in such statistical terms become somewhat rhetorical and hollow if they are not matched by effective policy action or analysis of the causes of socio-economic difference, and if such goals do not reflect indigenous aspirations' (p. 6).

Further detailed discussion of the problematic nature of these goals is to be found in the *Strategic Review of Indigenous Expenditure* (Department of Finance, February, 2011). This is particularly relevant to schooling where 'even by year 3 at school (average age 8), a very large gap has been established between the learning outcomes achieved by indigenous and non-Indigenous students...The size of the gap varies widely by jurisdiction and location..it is widest in the Northern Territory in some remote schools no indigenous students meet national minimum standards' (p. 98). In relation to health, this report comments: 'Clearly achieving the COAG targets for indigenous life expectancy will be a major challenge with some commentators already labelling the target "aspirational"' (p. 132). A report *Aspirations versus reality: closing the gap by 2030*, W Hoy, *Medical Journal of Australia*, May 2009, is cited.²⁶ In relation to economic participation, the whole burden is referred to the

²⁶ A paper issued by the *Closing the gap clearinghouse* indicated the gaps in basic knowledge that constrain program design in early childhood and pre-school educational services: 'What we don't know –1. How to significantly increase the early childhood

Indigenous Economic Development Strategy which will be discussed later. However the Finance paper notes that to meet the stated target an extraordinary 100 000 jobs would need to be created over a single decade.

The Discussion Paper issued in conjunction with the government's Indigenous Economic Strategy, gives no indication that government is contemplating an active role. Yet short of that, change in employment outcomes seems unlikely. Similarly, in relation to housing and home ownership, the report documents the daunting obstacles both legal and administrative to the realisation of targets. Finally, the Department of Finance review implies that the seven nominated major gap areas omit some important policy areas: for example, it suggests the development of an additional policy segment covering Youth at Risk

Nor are these the first attempt to spell out ambitious goals. In 1983, the Hawke government declared a new beginning as did Prime Minister Keating (1992) and the Howard government in 1996. For example, in 1987 the Hawke government committed itself to achieving equality between Indigenous and other Australians in employment, education and income by 2000. Needless to say, this was not achieved. In 1998 Prime Minister Howard declared 'practical reconciliation' would reduce disadvantage in health, housing, education and employment and outcomes were subsequently endorsed by COAG. The PC was subsequently commissioned to report on a biennial basis with comprehensive reports from 2003. The Howard government did not commit to specific targets until 2007 when it declared the gaps for the Indigenous community in the Northern Territory would be closed in five years (surveyed in Altman, 2009).

Others have questioned the conceptual foundations of the 'closing the gaps' (CTG) strategy. Altman (2010) notes that CTG was tried and failed in New Zealand, where it was finally abandoned in the mid 1990s. More deeply, this 'modernisation' frame presumes that this is what Indigenous Australians would themselves want. But they were never asked or consulted. It also overlooks other frames that might surround the enterprise of Indigenous development with a much more complex narrative, and which might better communicate the challenge to a broader public. The possibilities

Indigenous work force; to train and support Indigenous workers who will remain in their communities; and to build structures to enable Indigenous workers to develop a career path. 2. How to develop unique Indigenous services for Indigenous families rather than rely on models developed for and tested with non-Indigenous groups 3. How to increase trust of Indigenous families in mainstream services and non-Indigenous staff 4. How to best deliver programs to Indigenous organisations and their children in the various Australian contexts, including across geography and sub-cultures 5. How to create the funding and management structures to operate truly integrated services' Margaret Sims, *Resource Sheet No. 7*, May 2011).

are naturally contested. But if not widely debated there is little possibility of generating appropriate support in the relevant policy community, much less in the wider society.

Take economic development and employment. The government released a draft *Indigenous Economic Development Strategy* in 2010. There was a subsequent call for written submissions and some 95 were received. A final policy statement was released in November 2011. Divergences in approach are striking. For example, the draft itself and the submissions by Helen Hughes and Gary Johns all march in a 'modernising' direction, with the latter two more committed to uncompromising assimilationist conceptions and measures. Other submissions suggest approaches that are more accommodating of cultural difference and the opportunities that might be imminent within Indigenous communities themselves. Several refer to the 1984 Miller report as still the most comprehensive and relevant treatment of the issue, yet it is not cited in the present draft. Others argue Indigenous cultural practices and norms, which undercut the impact of developmental programmes, need to be confronted (Sullivan, 2007; Sutton, 2001). Some submissions support an approach based around mutual responsibility but administered in conjunction with relevant communities. For example, Janet Hunt (2010) questions the implicit individualism of the draft strategy. She observes: 'Those communities that are making progress with economic development across Australia have developed strong, culturally legitimate and effective governance. They have collectively developed a vision about what they want to achieve and then have developed locally-relevant strategies and programs to achieve it' She cites ten specific examples of successful action which reflect these principles.

The final statement of government policy, released in November 2011, (*Indigenous Economic Development Strategy 2011-2018*) sidelines the potential of hybrid economic activities. On the contrary, it declares that the primary opportunity in remote locations lies in the existing labour market and in 'removing barriers to genuine commercial ventures' (p. 16). Later it gestures to green economy opportunities: 'As investment in clean energy sources such as solar, gas and wind increases, the growth of the clean energy sector will also provide many new opportunities. Through the Indigenous Carbon Farming Fund ..the Australian government will support Indigenous Australians to take up opportunities in carbon abatement activities. This may include savanna fire management, feral camel management and environmental planting.....Indigenous Protected Areas, while delivering significant environmental benefits, will also support economic endeavours such as ecotourism' (p. 17).

This document underlines the primary theme of this study, namely that wholly top-down government is itself a threshold contributor to policy failure. Dillon and Westbury have succinctly summarised this failing: 'Because it looks to mainstream solutions to deeply entrenched non-mainstream problems...(centralised governance

fails to) recognise the sheer diversity of contemporary indigenous circumstance...Unless we get beyond 'closing the gap' the next phase in indigenous policy making and program investments is as "destined to fail" as previous approaches' (2007, p.1).

Returning to more general processes of strategic policy development, Altman asks why the Australian State is not engaging more deeply with these strategic alternatives. Perhaps one answer lies in the approach adopted for development of the Indigenous Economic Strategy, which reflects the standard assumptions about strategic policy development in Australian public administration. In May 2010, the responsible departments, FaHCSIA and DEWR, issued a discussion paper. They called for written submissions and attracted some 95 responses. In the *Australian Policy Handbook* (2007), Bridgman and Davis discuss the varied forms of consultation. Their consultation ladder consists of eight steps - in ascending order of depth of participation, exchange and transparency. The present approach - release of a discussion paper and a call for written responses - stands at the second lowest level, only one up from sharing information. This is hardly a process designed to illumine strategic options and choices, to uncover implicit premises and frameworks and to promote dialogue and, if possible, consensus. Altman himself suggests a parliamentary committee enquiry.

A variety of other issues that create strategic needs and circumstances in remote Australia quite different from those that operates in urban and regional Australia. For example, whereas aging is the primary issue for non-Indigenous Australia, the opposite is the case in remote Australia. 'In remote Australia the population is both extremely youthful and highly mobile. The high numbers of young indigenous citizens place new pressures on government service delivery but (also) place extraordinary pressures on social cohesion within societies whose traditional structures are under attack from without and whose legitimacy is under constant pressure....In this environment government programs need themselves to be specifically designed for delivery to a mobile client base. Very few programmes meet this benchmark' (Dillon and Westbury, p. 58).

Another is the connection between indigenous and non-indigenous communities. 'The geographic and demographic inter-penetration of Indigenous and non-indigenous populations (means that) it will be more and more difficult for governments to separately focus on indigenous or non-indigenous citizenry' (Dillon and Westbury, p. 58).

A third issue concerns the varied bases of economic opportunity in each of the fifteen regions of remote Australia. To take only the Pilbara, already around \$90 billion of new private investment has been committed. The resources boom will touch all Australians. Yet there is now no official governmental paper which pulls together relevant economic and social considerations or discusses the implications

for remote Australia, much less the community more generally. So far as the pastoral industry is concerned, recent reports suggest not only that its future is clouded but also that a new economic activity, carbon farming, may constitute the base for a widespread economic renaissance (Rothwell, 2011; Henbury Conservation project, 2011). In other regions (such as Central Australia) government is itself the principal generator of the local economy, an issue which deserves more detailed consideration.

Settlement and Housing Patterns.

Take two basic strategic issues, housing provision and settlement patterns. These have been identified as contributors to the current malaise.²⁷ The early settlements were originally ration points and mission posts established as convenient staging points away from major centres or in support of the pastoral industry.

Over the past 30 years culture and land attachment have driven development of more than 1000 new settlements including some established as a retreat from the dysfunction of larger settlements where forced co-location of different groups was unwieldy. Under today's conditions this re-engagement with significant country through the outstation and homeland movement has been questioned on grounds of viability.

This settlement pattern driven by cultural attachment is now problematic because Indigenous culture is seen to not support increased engagement in the mainstream and in the view of some has helped create the social dysfunction evident in many communities.²⁸ Further the nature of the land holding is seen as problematic by those seeking to use conventional models of Indigenous economic development.

The present approach assumes most settlements are unviable but that resources are best focused in a series of 26 hub towns (e.g. Department of Finance, 2010, p. 72). A

²⁷ Walker, B W, Porter, D J, Stafford Smith, M. 2008 *Investing in the Outback:*

A Framework of Indigenous Development within Australia. Submission to the Northern Territory Emergency Response Review Board, Centre for Appropriate Technology Inc, August 2008

²⁸ Sutton, P., 'The Politics of Suffering: Indigenous Policy in Australia Since the Seventies', Inaugural Berndt Foundation Biennial Lecture given at the annual conference of the Australian Anthropological Society, University of Western Australia, on 23 September 2000.

Kunoth-Monks, R., 'Land and Culture: Necessary but not Sufficient for the Future'. Identity in the 21st Century, presentation to Desert Knowledge Symposium, November 2006, Alice Springs

combination of policies that aims to move Indigenous people up the settlement hierarchy from outstations to townships and now from townships to mainstream urban employment could see urban migration at an unprecedented level. Take the Northern Territory. Even before the emergency measures were announced, it was estimated that if the Alice Springs hinterland was emptied of Indigenous people living on their traditional lands, the Indigenous share of the Alice Springs population could increase from 20 per cent to about 50 per cent. This is obviously a statistical extreme, but if the full suite of commonwealth policy is taken at face value, and is effective, then this could be the outcome. Negative social cohesion impacts from relocation would make Alice Springs a very different sort of town.²⁹

A reflection on settlement practice suggests that they survive and thrive when they are associated with a significant economic resource or have a market adjacent to them. Moreover, issues of water, energy, resources, skills, markets, transport and services, etc are relevant factors in resilience of settlements.

If culture and land are seen as necessary but not sufficient factors in settlement viability into the future then more time needs to be spent examining what might form the economic base for the dispersed network of settlements across Australia.

Meantime, it is difficult to see how employment opportunities will be found should people abandon their communities and move to town. The social trauma and dysfunction currently faced by people is unlikely to be relieved by creating a series of fringe settlements or new suburbs around Darwin, Alice Springs, Cairns, Kalgoorlie, Mt Isa, Broome and Kununurra. In sum, sustainability will be greatly enhanced if there is a clearer agenda for investment and development of the settlements across remote Australia.

Moreover, until it is possible to understand and define a settlement pattern that is in the national interest it is difficult to invest in housing with confidence. There has been much discussion around Indigenous housing and the cost of construction and the short lifecycles of these investments in existing settlements. The NT Government estimates required expenditure of \$1.6 billion on some 4000 houses in the NT. In the absence of a strategic rationale for the investment beyond providing accommodation for Indigenous people this could further contribute to misalignment between location and opportunity. Housing rather needs to be positioned in a wider regional development context with investment decisions made around the capacity of the industry to deliver and the capacity of the users to manage and sustain the service they obtain through the house. This requires a shift from a primary focus on normalising services and minimising disadvantage to a process that is principally driven by investment potential in a regional economy.

²⁹ Taylor and Altman – The Australian 11th July 2007

Home ownership and individual land holding only make sense if there is a reasonable prospect of the owner having an income source that is commensurate with the nature of the investment made. According to Stafford-Smith: “The truth is that people can choose to make almost any scale of settlement and remoteness work if they are prepared to adjust their aspirations and take on an appropriate service delivery model (probably involving a great deal of self-reliance)”.³⁰ For example, most pastoralists provide their own power and water and rubbish management services, and accept greatly increased health risks in exchange for their lifestyles. Likewise, some older Aboriginal people even today would rather live in subserviced humpies on their country than in (admittedly crowded and dilapidated) housing with water and power in town (e.g. Amnesty International, 2011).

Such a position requires Government to rethink how it applies some basic equity principles that don’t necessarily result in the statistical equality that comes with policies of practical reconciliation and mainstreaming³¹. It also challenges local communities to fully understand the reality of their expectations or the politicisation of their inequality by external interests.

The NTER as evidence of governance failure:

In a governance perspective, the NTER represented systemic failure. Why? Starting from 1991, at least seven reports had explicitly noted the presence and degree of sex abuse - but nothing happening. To take only the more recent past. In June 2004, COAG adopted two documents one covering the delivery of indigenous services and the other a ‘national framework for preventing family violence and child abuse in indigenous communities’.³² In June 2006, a Summit on domestic violence and child abuse in indigenous communities was convened. This included representatives of state and federal governments. The participants agreed to examine a range of proposals, including ‘a greater role for a network of Aboriginal seniors’.³³ These recommendations were discussed at a COAG meeting in July. In December, the federal minister released his blueprint for action whose three key points were the

³⁰ Stafford Smith, M and Moran, M., ‘The Community – Settlement nexus – drivers of viability and resilience in remote areas of desert Australia.’ (in development), p18

³¹ Peterson, op cit, p13

³² COAG Communiqué 25 June 2004, available at <http://www.coag.gov.au/meetings/250604/index.htm#attatchments>.

³³ Larissa Behrendt, Indigenous Policy: law and order is only part of the solution, Australian Policy Online, 3 July 2006, accessed at www.apo.org.au

same as those announced in May 2004: early childhood intervention, safer communities, and building an entrepreneurial culture.

In June 2007, five months before an anticipated election, the report, *Little Children are Sacred*, was published. It documented distressing levels of child sexual abuse. Its release was accompanied by much media fanfare. Six days later the federal government announced its emergency intervention.³⁴ The intervention itself extended well beyond the recommendations of the enquiry (Anderson, 29 June 2007).³⁵ As noted earlier, this response effectively repudiated processes and approaches that had been unfolding over the previous seven years.

Should the policy system have registered the scale of the challenge earlier? Why did it take seven years after the promulgation of 'practical reconciliation' to identify the scale of a problem that was acknowledged to be long standing? Did the national government policy system have earlier intelligence? The answer is a resounding yes. As far back as 1999 a report entitled *Violence in Indigenous Communities* had been prepared for the Department of Aboriginal Affairs by Dr Paul Memmott.³⁶ This was released publicly in 2001, a delay of two years after its completion. The report offered a no-holds-barred assessment of the scale of the problem. It emphasised the prevalence of sexual abuse and the inadequacy of existing responses. It had no impact on policy. The government did not seek to seed a wider discussion about options.

In November 2001, the Queensland government released a report on problems in indigenous communities in the Cape York area.³⁷ This effectively repeated the Memmott findings, and in equally unequivocal terms. In 2002, the Western Australian government also released a report on sexual abuse in Western Australian communities (The Gordon Report, 31 July 2002). The COAG process cited above unfolded with these reports available. In 2003, the indigenous leader Mick Dodson spoke forcefully at the National Press Club about violence, alcoholism and sexual abuse.³⁸ Nothing happened. The Ministerial Task Force established in 2004 had all these findings available to inform its deliberations, but they had no apparent impact. Finally, as noted above, an inter-governmental summit on violence and

³⁴ See FaCSIA media release 21 June 2007

³⁵ Accessed at www.apo.org.au/webboard/print-version.shtml.filename_num=161613

³⁶ Memmott, P. et al. *Violence in Indigenous communities* (2001), Attorney-General's Department, Canberra.

³⁷ Fitzgerald, J., *Cape York Justice Study* (2001), p. 60. available at <http://www.communities.qld.gov.au/community/publications/capeyork.html>

³⁸ Sydney Morning Herald, 30 June 2007, p. 35.

child abuse was held in 2006. This pointed to the cost and blame shifting that characterised federal-territory and state relations. Again, nothing substantive happened. Despite its declared leadership role, the national government failed to treat sexual abuse as a priority issue.

Another example of a governance problem that the policy system has not properly highlighted is turnover. Peter Sutton (2001) notes the profound dilemmas associated with short term assignments of public servants to indigenous communities. Writing in 2008, Prout provides a specific example in education, which suggests that the problem persists: 'Despite the clear finding that one of the most significant facilitators of academic achievement for Aboriginal students is their relationship with teachers.....At Meekatharra District High School..there have been 15 principals in the last nine years. Almost the entire school staff turns over every one or two years. Most of the nursing staff turnover regularly every few months' Prout, 2008, p. 23, 24)

Why was the political system unable to register compelling evidence of a policy need? Executive preoccupations are surely part of the answer. For at least half of this period executive preoccupations with symbolic and representational issues trumped attention to policy needs. Further, despite its declared aims, the severity of the problem was never acknowledged in the practical reconciliation process. But this was not because intelligence was unavailable. It was, presumably, an inconvenient truth. Ultimately, the problem is structural. There was no capacity to seed public discussion of a highly sensitive issue. There were no access points where concerns could register authoritatively.

Is remote Australia a failed state?

Through his articles over many years, Nicholas Rothwell has offered witness to the daily circumstances of many of Australia's Indigenous peoples. Far from the taken-for-granted urban experience of most, Rothwell records conditions of life that are, in another rendering, 'mean, nasty, brutish and short'. Recalling Hobbes vision of the state of nature is a reminder of the curse that created this malady: corrupted governance. And of a further consideration - Hobbes' remedy begins with an act of consent. The Australian state is far from *Leviathan* – but in his record of conditions in Alice Springs, the Kimberley's, Kununurra and Halls Creek, Rothwell's unsentimental eyes register circumstances and situations that are bleak, heart-rending and unchanging - despite repeated governmental promises over many decades (e.g. *The Australian*, 24 October 2009, 30th April 2010). Noel Pearson has written eloquently of similar developments in his own community (2007). These destructive outcomes are not of course the whole story. But they are disturbingly pervasive.

The NTER exactly parallels the response used by the Federal Government to address the failed states of the South Pacific where police have been used to stabilise acute social disturbance.

These responses have three main aspects:³⁹

- i) security/policing, in order to re-create the primary public good of peace, order and stability.
- ii) executive solutions, that is, effective ceding by the state of executive authority to foreign control/influence (over typically, budget making and spending, audit and interdiction) in return for concessions (aid, trade and other benefits), Elected representational political processes play a second fiddle to executive solutions.
- iii) 'community solutions'- the usual raft of AusAID-type community based water, health, and education projects. Problems are seen as 'community/local' issues (not as the product of the society's geopolitical or trade position on the periphery of the global economy, history of violence and poverty, etc), for which there are few 'community solutions'.

The political and administrative elements of this approach include:

- Creating direct relations between the highest level of authoritative governance and local recipients regarded as 'risky' or 'at risk' (in the NT case directly linking the federal government and the children in risky places).
- Sidelining intermediating agencies (e.g. introduce tent clinics to usurp the community controlled health services next door)
- Creating systems of surveillance and contractualised accountability in which recipients respond to the policy priorities of central authorities (e.g. through income management)
- Using hard-edged 'command' and 'control' systems to intervene, to cut away all the other messy arrangements, and make it easy to access land (e.g. use the army to resolve logistic matters and directly lease parcels of land).
- Expressing high level policies as directly measurable outputs (e.g. number of children checked, decrease in outbreaks of violence, or number of sexually transmitted diseases).

³⁹ Walker, B W, Porter , D J, Stafford Smith, M. 2008 *Investing in the Outback:*

A Framework of Indigenous Development within Australia. Submission to the Northern Territory Emergency Response Review Board, Centre for Appropriate Technology Inc, August 2008

In various ways these arrangements require failed state or local authorities to cede executive sovereignty – for policing, economic governance, fiduciary oversight – to external agencies. The situation is normalised so that services and aid targeted at poverty reduction can be delivered.

This mode of response improves direct security and can quickly channel large volumes of resources for popular services into peripheral places. It is highly desired by community members who want relief and it places executive staff in control of local institutions with direct lines of accountability to the central government. It puts kids in school, delivers additional primary health care, gets infrastructure built and sets off a round of small and relatively inconsequential income generating projects.

Yet these conditions have little to do with the personalised welfare dependency that is the root cause of the current malaise.

Conclusion:

This section has ranged across the strategic context of policy. Several conclusions are clear.

First, imposed crisis responses breach every rule of governance that Australian governments have themselves promulgated. They also reflect a policy development system that lacks adequate structural capability. Yet in no area of public policy is the need for a rich and diverse and sometimes confronting conversation more essential. At a conceptual level, the NTER signified policy failure accumulated over many years. It parsed the problem of sexual abuse in wholly individual and local terms. It legitimised action through the metaphor of ‘emergency’. Whilst this may have been helpful as a galvanising device, this obscured systemic governance failings – indeed deflected attention from this fact. And the recent 10 year extension of this form of intervention now titled Stronger Futures – has normalised this approach as the response to governance failure.

A second conclusion concerns the inter-dependence between indigenous and non-indigenous communities in any particular location. No where is this better illustrated than in the case of the Pilbara. It is impossible to separate in any substantial way the interests of the major stakeholders. Their interdependence is clear. But the complexity of the challenge of framing workable governance arrangements is no less clear. In the face of the massive economic and social pressures that are emerging and converging, this presents a considerable imaginative challenge. There are few precedents. The emergent pressures need to be absorbed and assimilated over a short decade. If there is to be a reasonable prospect of adaptive change that works for all the stakeholders now is the time to act. Moreover, given the scale of the challenge, nothing short of radical action is required.

Are the processes for framing strategic governance reviewed here appropriate for the complex issues associated with remote Australia? The answer seems clear. This is no way to advance or resolve such fundamental debates. The underlying strategy questions remain unresolved and largely unaired outside specialist circles, which are largely isolated from each other. If the object is prudent public policy, there could be no area with greater need for wide deliberative engagement. In other words, there is not only a delivery and local engagement gap - but also a profound systemic gap covering the development of strategies for remote Australia.

10. remoteFOCUS and Pilbara Aboriginal People

Dr Mary Edmunds

1. Context

In his address to the National Press Club in September 2010, the Federal Minister for Regional Australia, Regional Development and Local Government, Simon Crean, outlined a number of principles that apply also to remote Australia:

Local empowerment is about recognising that in our federalist structure, the needs and aspiration of our people can best be met by allowing decision making about their economic, social and environmental wellbeing to be made closer and closer to the people most affected by those decisions...

There are three considerations that guide my vision of a better future for regional Australia.

- We need to ensure that economic growth and sustainable development is the driving influence in all regions of the nation.
- We are required to operate within a Federal structure that gives expression to the hopes and aspirations of all Australians
- noting of course that our Federal system only recognises two tiers of government, yet depends on three levels of government for service delivery.
- And third, I hold firm to an inherent belief that the best way to balance the economics, the politics and the geography of diversity and sustainability is to understand the importance of local engagement – to more effectively empower local communities. Local communities deserve to have their voices heard at all levels of government...We want communities to be able to take responsibility for charting their economic, social, and environmental wellbeing and devise a way forward that stacks up against sound socio-economic principles.

We need to view regional development through the lens of economic, social, and environmental development.

The Minister's emphasis in his speech links the central principle of local engagement closely with diverse and sustainable social and environmental, not just economic, development.

Maintaining a balance amongst all three is a particular challenge in the economically over-heated Pilbara. Here, in a classic demonstration of the effects of

the 'resource curse', the scale and pace of recent cycles of resource boom have threatened to overwhelm the capacity, not just of local people and institutions, but also of governments, to manage either their social or economic environments. Only in the past few years has government attempted to take back some control over this key region in remote Australia in order to fulfil its 'responsibility to provide an institutional framework that enables civil society and economic and social development' (Desert Knowledge Australia 2008: 6).

RemoteFOCUS was initiated in 2008 with the recognition of the apparent failure of current structures to deliver effective government to remote Australia. Its aim is to effect reform of public policy and improve significantly the way that governments engage with remote citizens and undertake the administration and governance of remote Australia. As the remoteFOCUS project has developed, it has identified a number of governance dysfunctions that are structural and that underlie the incapacity of the present structure of government to administer remote Australia effectively. These are dealt with at length in the main report so they are summarised here only briefly as a point of reference for the discussion in the following papers:

- lopsided governance and responsibility, where a shift to greater centralisation of decision-making has been matched by an outsourcing of service delivery to the private sector and an assignment of responsibility for implementation and problem-solving to local communities, households, and individuals;
- organisational deficits and misalignments, where organisational arrangements are not 'fit for purpose', with a resulting misalignment of needs and responses in remote Australia;
- policy over-reach and administrative under-reach, where commitments 'over-reach' beyond what is simply feasible from an administrative and fiscal point of view;
- inability to reconcile parochial and general interests, underlining the lack of any coherent mechanism for balancing distinctive local needs and aspirations from the needs and aspirations of the urban majority;
- policy turbulence and instability, where constant policy 'churn' results in practice in policy nonsense, together with a continual shuffling of functions, powers, and resourcing of different levels of territorial authority;
- mis-matches between responsibilities and resources, where the principle of 'resourcing following function' is rarely, if ever, achieved.

2. The remoteFOCUS Pilbara Project

The Pilbara Project sits within this broader remoteFOCUS mandate. The Pilbara Project is to consider how governments need to change how they govern, administer, and interact with the Pilbara region, and to develop recommended measures and reforms. In a briefing note prepared in November 2010 (Walker 2010: 4-5), the project phrased this purpose as positioning the Pilbara 'as a leader in the reform of government governance, administration, and engagement, with the aim of significantly advancing regional development through a more strategic, systemic, and sustainable process' and referred to 'a scaled regional reform program'.

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In view of these deficits, remoteFOCUS commissioned this series of papers with three main objectives:

- to compile a socio-political overview of Aboriginal people in the Pilbara and report on the dynamics of engagement between Aboriginal people and the institutions of the Pilbara including State and Commonwealth, local government, industry and other Aboriginal organisations;
- to undertake specific targeted studies in the Pilbara that will inform the remoteFOCUS project on ways of Aboriginal people being able to draw the greatest benefit from developments in the Pilbara and the establishment of the Pilbara Cities agenda; and
- to distil from the overview and case studies evidence-based learnings and recommendations as a basis for strategic and positive ways for Aboriginal people to pursue their aspirations through engagement/involvement in governance reforms in the Pilbara and the associated investments occurring in that region.

There are five papers, in addition to this introduction, that address these objectives.

- Paper 1 – 'Doing washing in a cyclone, or a storm in a teacup? Aboriginal people and organisations in the Pilbara' – is an overview of Pilbara Aboriginal demographics and dynamics, both historically and in the context of the present hyper-development.

- Paper 2 – ‘A new story. Roebourne : a case study’ – looks at the history and current activities in a town that has a largely Aboriginal population and two recognised native title holding bodies.
- Paper 3 – ‘Harnessing the cyclone. Gumala Aboriginal Corporation: a case study’ – examines the workings of a particular Aboriginal organisation set up through the process of negotiations with a mining company.
- Paper 4 – ‘Connections, continuities, and change. Martu and their country’ – looks at the ways in which a Western Desert group in one of the most remote areas of remote Australia has acted and responded to the impact of change.
- Paper 5 – ‘Imagining a region: prototypes and possibilities for Pilbara Aboriginal people’ – takes the broader view of how Aboriginal people and organisations are operating and might operate at a regional level, including ways in which they might engage with wider Pilbara regional planning and governance institutions.

These papers, individually and collectively, illustrate the effects of the governance dysfunctions of current governance structures and practices affecting remote Australia and identified as part of the broader remoteFOCUS project. They also point to another critical and unresolved tension for governments: that is, how to achieve greater clarity of national purpose and realisation of appropriate living conditions and opportunities for Aboriginal citizens while at the same time accepting the right of Aboriginal people to cultural distinctiveness and identity.

In his book, *Belonging together*, Sullivan (2011) sketches the history of more than fifty years of government policies that have tried and failed to reach these twin objectives. The latest in this long line is the policy of mainstreaming or normalisation, now often glossed as ‘closing the gap’. The Pilbara studies make clear that this policy, too, is far from succeeding. Nevertheless, Sullivan offers a way out, that is (2011: vii):

a greater integration of white Australia with Aboriginal Australia, a reordering of our subjective understanding more than our structural relationship. I call this a consolidated approach to Aboriginal affairs. It recognises the improvements achieved in Aboriginal circumstances during the period of rights-based land and development programs, recognises also the distance still to travel, and accepts the fact that the future of Aboriginal Australia is inextricably bound up with the future of the descendants of our settlers and immigrants.

Recognition of this inter-relationship requires understanding about how consolidation differs from integration or assimilation...: it is a two-way process.

This 'two-way process' emerges strongly from the Pilbara studies as 'partnership'. Sullivan goes on to argue that such a two-way process is a logical extension of the kind of engagement often referred to as the intercultural domain, where 'culture is found in relationships formed by experience rather than being a structured thing that people "have" or "belong to" ' and 'intercultural exchanges and negotiations are taking place all the time everywhere there are people, whether they are Aboriginal or non-Aboriginal' (2011: 18). Looking at the example of one group, the Ngaanyatjarra people – whose experiences since colonisation are not very different from those of the Martu (paper 4) – he discusses four important ways in which

Ngaanyatjarra are enmeshed in wider Australian processes: their corporate expression as a group, their land tenure arrangements, their interdependence with non-Aboriginal people on their lands, and through sharing the environment within which they live...Ngaanyatjarra people, whether they care about it or not, are ineluctably bound into the Australian state (2011: 27, 28).

His point is that 'boundaries are not inherent to a culture but contextual, mutable and negotiable, and cultures are nested, imbricated, layered, with their own subcultures as much as "other" cultures' (2011: 26). His view is supported, as these studies make clear, by the experience of Pilbara Aboriginal people since the first pastoralists arrived in 1864.

This is not to suggest that the forms of interdependence, or of their effects, have been or are uncontested. On the contrary, as again made clear in these studies, there is a pernicious imbalance in the relationships between Aboriginal and non-Aboriginal people in the Pilbara, resulting in the present marginalisation of Aboriginal people from the intensified decision-making processes in the region, whether being undertaken by government or by resource companies. The remoteFOCUS Prospectus pays attention to the implications of this for Aboriginal organisations in its Attachment 1, on the accelerating crisis in remote Australia (2008:19):

The evidence...points to the vulnerability of Indigenous governance structures trying to deal with the growing demands of resources boom, land negotiations, and very significant streams of new revenue from agreements with resource companies.

Attachment 1 of the Prospectus also relates to the impact on Indigenous organisations of the governance dysfunctions of governance (2008: 18-19):

The *Indigenous Community Governance Project* has documented the effect of crippling stresses on the Indigenous organisations who are trying to cope with labyrinthine government funding arrangements, duplication and red tape, cross-jurisdictional inefficiencies, and the confusing array of overlapping short-term niche programs.

Achieving a meaningful place for Pilbara Aboriginal people within the stated goal for the remoteFOCUS Pilbara Project of a scaled regional reform program is clearly highly complex and therefore daunting. Nevertheless, a number of themes emerge from the Pilbara studies that suggest that the challenges are not insuperable. Two of these themes in particular offer the basis of a way forward. One relates to Aboriginal principles of regionalism. The other is the critical place of Aboriginal organisations as providing ‘the institutional framework of Aboriginal civil society and, at the same time, the principal means of Aboriginal civic engagement with the wider world’ (Sullivan 2011: 50).

3. Aboriginal principles of regionalism

In their February 2011 final report, the Indigenous Implementation Board suggested that it was ‘considered premature to seek to define a regional governance model at this time for the Pilbara’ (2011: 38). Their view was based not on incapacity but on an assessment of the high levels of pressure affecting Pilbara Aboriginal groups (2011: 37):

The relatively limited amount of determined Pilbara region native title and the negotiation pressures on claimants and representative bodies means that the Pilbara is several years behind the Kimberley in reaching the level of stability to be considering aggregated Aboriginal representative structures.

The Board’s interim recommendation was for the re-establishment of a council of elders – previously convened by the Department of Indigenous Affairs – to act as a reference group for the Pilbara Futures Forum as it develops regional governance options. The findings of this series of remoteFOCUS papers make clear that this recommendation, while it may be appropriate, does not go far enough. The conversation has already begun and there is an appetite among Pilbara Aboriginal people for it to continue. But there is already a sense of disappointment that the momentum arising from the first meetings has dissipated.⁴⁰ For this to be effective, a momentum needs to be built up and maintained. This will require a dedicated and intensive effort as discussed further below.

The remoteFOCUS studies also make clear that the experience of regional groupings is not new to Pilbara Aboriginal people, either historically or more recently. They share this kind of experience with other parts of Australia. Building on previous anthropological analysis, including Sutton’s description (2003) of the tension in Aboriginal groups between atomism and collectivism, Smith (2005) identifies a number of principles that underlie classical forms of Aboriginal regionalism. One she terms ‘relational autonomy’ (2005: 3):

⁴⁰ This point was made at a meeting between remoteFOCUS and Aboriginal people at the Port Hedland hospital, 21 July 2011.

Within Indigenous social and political domains there is a preference, on the one hand, for autonomy, that is marked by a tendency towards localism and high value accorded to local control at the level of small, kin-based congeries of people attached to particular geographic locales.

But this momentum towards atomism, fission and small-scaled autonomy is systemically balanced, on the other hand, by an equally compelling strain towards relatedness. This emphasises the desire for connectedness and interdependence, and the reproduction of enduring Indigenous webs of relationship, alliance and exchange, and brings small groups together into confederacies; this is, alliances for some common purpose, which are sometimes lasting, sometimes short-term and situational.

The second principle she discusses is subsidiarity (2005: 4):

Instead of assuming that governance must be centred, bounded and unitary, the Indigenous principle of subsidiarity, when meshed with the principle of relational autonomy, poses the possibility that federal systems of Indigenous governance can be decentred and accommodate inter-dependent layers...An important characteristic of traditional subsidiarity is its negotiated division and allocation of roles, rights and responsibilities across different groups and classes of people...

The [Indigenous Community Governance] Project case studies are highlighting a 'two-way' trajectory for Indigenous governance: namely, a desire for residential decentralisation and localism on the one hand, alongside political centralisation and service regionalism on the other.

Sullivan (2011) takes a somewhat different view of subsidiarity, that retains its importance as a principle but links it more broadly to the relationship between cultural rights and universal rights. It also places the discussion of subsidiarity in Aboriginal governance firmly within the wider remoteFOCUS agenda for remote Australia generally (2011: 13):

Autonomy and recognition of culturally derived authority can be reconciled with respect for civil and human rights by developing the concept of subsidiarity to include culture as well as governance...It seeks to allocate to central authorities decisions that transcend local particularities, yet at the same time guarantees to regions the right to set policies that reflect regional priorities. It is also often stated as being the principle of decision making as close to the level of the individual citizen as is appropriate for the circumstances.

The Pilbara studies make clear that achieving this is not straightforward, as the failed example of Marnda Mia (paper 5) and the uncertain future of the Roebourne Aboriginal Congress (papers 2 and 5) demonstrate. But the studies also provide

examples of regional movements that have existed in the past, and also current arrangements that offer working models for evolving regional structures, with ‘the creation of connected autonomy where there are tiers of authority, responsibility and entitlement, together with tiers of accountability – down to local constituents, and up to higher organisational levels’ (Smith 2005: 5).

4. Aboriginal organisations as the institutional framework of Aboriginal civil society

In 1958, Edward Banfield published a study of a region in southern Italy where he observed what he called ‘amoral familism’, that is, a family-centric society unable to transcend immediate family interests in order to work together to solve common social problems or to act for the common good. One of the reasons for this, he suggested, was the absence of community building institutions or, in terms of the present discussion, of any kind of civil society.⁴¹ Banfield’s analysis describes atomism without the balancing tendency towards collectivism or, in Smith’s term, relational autonomy.

Banfield’s conclusion is relevant to providing a context for the relationship between the strong family-centred interests in Australian Aboriginal societies and the development of Indigenous sector organisations – Banfield’s community building institutions – since the early 1970s. Sullivan (*Belonging together* (2011) sees the development of these Indigenous sector organisations as instrumental in providing Aboriginal cultures with a contemporary institutional framework for building wider networks and taking control of their own modernisation. He sees them as both drivers of positive social change and manifestations of such change, as the foundation of Aboriginal modernisation, and as the principal means of Aboriginal civic engagement with the wider world (2011: 56, 57, 50). He draws on Rowse to say that (Sullivan 2011: 56):

the importance of Indigenous sector organisations goes beyond their service function to the core of social rights in a liberal democracy...Indigenous not-for-profit organisations are the primary means for most Indigenous people to

⁴¹ The term ‘civil society’ has come to be seen as a third sector, distinct from government or the public sector and the market or private sector. Sullivan (2011: 56) describes this third sector as embracing ‘enduring and formal associations of people who aim to provide a social benefit to their members and/or clients’. The World Bank, drawing on a range of research institutions, defines the term civil society ‘to refer to the wide array of **non-governmental and not-for-profit organisations that have a presence in public life, expressing the interests** and values of their members or others, based on ethical, cultural, political, scientific, religious or philanthropic considerations’ (<http://web.worldbank.org>).

make themselves visible as citizens within a polity of which they form a small minority.

The findings of the Pilbara studies support Sullivan's analysis and make clear that Aboriginal organisations play a key role in the region, even in the absence of a formal regional body and in spite of the relentless pressure being exerted on them. While other Pilbara residents may privilege their status as citizens in their relations with the state, for Pilbara Aboriginal people this relationship, even as citizens, is largely mediated through organisations. Sullivan also points out (2011: 50) that Aboriginal people, particularly in regional and remote areas, do not achieve their understanding of civic engagement with the wider society from schools or through the media, but through engagement with their local organisations. This is true in the Pilbara, whether the organisations are focused on dealing with the state or, as in the case of Gumala (paper 3), with resource companies and an absence of government. All are what Rowley (1972: 255) termed 'their own legal-economic carapaces', a concept that is elaborated in paper 3, and what Levitus (2000: 75) refers to as transactional boundaries or spaces (paper 2).

Through their organisations, Pilbara Aboriginal people, like Indigenous people elsewhere in the country, have gained practical experience of participatory engagement, in the challenges of acceptable representation, and in the critical need for cultural legitimacy (paper 1). As paper 5 suggests, the Pilbara has effective organisations that demonstrate cultural legitimacy even in the face of the governance dysfunctions of government and the distracting pace of development. Others have failed to achieve such cultural legitimacy and have withered as a result.

Before going on to discuss the implications of all this for the development of a Pilbara regional Aboriginal body, there are three other points to be made about organisations. One is the pervasive presence of 'Indigenous extended families of polity forming the backbone of governance and especially organisational modes of governance' (Hunt and Smith 2006: 10). The second is that cultural legitimacy sometimes comes from a wider coalition of organisations. The third is another instance of the essential interconnectedness of Aboriginal and non-Aboriginal Australians in the presence in Aboriginal organisations of 'trusted outsiders'.

4.1 Families of polity

This concept is very different from the 'amoral familism' described by Banfield (1958). Sutton (2003: 206) in discussing the constitution of native title claims, points out that 'these wider groups...have internal structure, typically comprising a set of units usually referred to by the applicants as 'families' identified by surnames in documents or oral evidence'. The Indigenous Community Governance Project also identified this feature as having much wider application than just in native title claims (Hunt and Smith 2006: 10). Sutton goes on to elaborate (2003: 208):

Regardless of how it is locally defined, a human family is always a jural construct and never merely a biological or demographic datum. This is because it belongs to the realm of kinship, or recognised genealogical relationships, rather than merely to the reproductive history of some randomly selected set of individuals...A further reason why the family is always a jural construct is because within any one culture its examples belong to a set, or a set of genealogically nested subsets, of like or parallel entities. That is, families are units of social organisation, and thus in any one society they are both structures of comparable or parallel internal makeup and at the same time they are units that together form a wider mesh or structure. In a kinship-based society relations between individuals almost always both entail and affect, sometimes quite comprehensively, relations between different families.

The conclusion to be derived is that the development of good governance models in Aboriginal organisations must accommodate the principle that ‘the familial and genealogical parameters of Indigenous community and regional governance are critical to the success of any policy implementation and capacity development initiatives around governance’ (Hunt and Smith 2006: 10). The principle manifests itself in diverse ways, and is often itself a site of conflict and bureaucratic frustration, but Indigenous organisations do not constitute just another corporation, which is another reason why Indigenous groups themselves must have the main voice in organisational design, and why the Martu organisations, to take just one example, are able to operate so effectively (paper 4).

4.2 Cultural legitimacy within a region

There are a number of instances of this from across the country. Here I refer to only one, from outside the Pilbara, but demonstrating the way in which cultural legitimacy can operate to contain conflict arising from the stresses of modernity. The example is from the Kimberley and relates to the bitter dispute over the Goolarabooloo Jabbir Jabbir people’s decision to agree to the development by Woodside of a gas hub at James Price Point off the coast of Broome. The decision was brokered by the Native Title Representative Body, the Kimberley Land Council, over a period of several years and multiple consultations. Both the decision and the Kimberley Land Council have been attacked and opposed by dissident Goolarabooloo members, as well as by environmental and other lobby groups. As a result, the Kimberley Land Council, despite its formal representative status, has been under great pressure, including from among Kimberley Aboriginal people.

At the end of September this year, the three major Kimberley Aboriginal organisations – the Kimberley Land Council, the Kimberley Law and Cultural Centre, and the Kimberley Language and Resource Centre – held their annual meeting at the Nyumpan community. Collectively, the three organisations represent twenty-nine language groups from across the whole region. The five hundred

community leaders at the meeting gave public support to the decision of the Jabirr Jabirr traditional owners to back the project (*The Weekend Australian* October 1-2, 2011).

The support is unlikely to mean the end of the dispute. Nor does it indicate that the conflict is a sign of the institutional failure of the Land Council. What it does demonstrate is the way in which Aboriginal organisations can develop capable, legitimate, and accountable institutions that can manage the evolving nature of social contestation, which is an inherent part of any changing society (Dinnen *et al.* 2011: 16), and that sometimes this process requires a network of organisations rather than any single one. The Kimberley annual meetings exemplify the regional principle of relational autonomy.

4.3 The role of ‘trusted outsiders’

In a 2007 paper, Moran discussed the role of ‘trusted outsiders’ in Aboriginal organisations. As he noted, this has been an underdeveloped area of analysis but one that is beginning to draw more attention, with a shift to the intercultural ‘away from an emphasis on an “interface” between separately conceived domains, towards an approach that considers Indigenous and non-Indigenous social forms to be necessarily relational, and to occupy a single social-cultural field’ (2007:3, quoting Hinkson and Smith 2005). Moran identifies two categories of trusted outsiders: permanent resident outside employees and resident departmental officers (2007: 8). Those who were employees of the Aboriginal organisations – in this case, in Kowanyama in Cape York – were recruited principally on the basis of their technical expertise in a particular area such as financial accounting, environmental management, native title negotiations, and mediating justice systems (2007: 9), thus supplementing the human capital available in the community. Sullivan (2011: 31-32) queries the need to limit the description to residents, and indeed to the notion of ‘outsider’, but recognises the importance of the presence and the roles.

Again, the Pilbara studies support this analysis: the most successful Aboriginal organisations operate with a combination of local Aboriginal and non-Aboriginal employees, working to and with an effective Aboriginal board. In these instances, the key elements for the non-Aboriginal staff are trust – we are back to the relational model – and competence. As the studies indicate, there are also Pilbara examples of failure where one or both of these elements are lacking.

There is another category of trusted outsider which has proved effective in other situations, that of independent community mentors or brokers – the funded broker – to enable effective community-government interactions (Desert Knowledge Australia 2011: 3). The Desert Knowledge submission refers to the work done by Bill Gray and Neil Westbury with governments and communities in Groote Eylandt as just one good example and makes the point that the establishment of funded brokers is similar to mining companies funding land councils – or Native Title

Representative Bodies – so that they have the capacity to negotiate agreements effectively. This happened with the Ord Stage 2 agreement in the Kimberley and is common in the Pilbara, where it has facilitated a number of native title agreements.

5. The place of Pilbara Aboriginal people in decision-making for the region

The Pilbara studies make clear that the current government intervention in planning for the future of the Pilbara has failed to include Pilbara Aboriginal people in any comprehensive way. There is positive and important engagement through the Royalties for Regions and collaboration between the Department of Indigenous Affairs and Pilbara Cities; but the principal focus is not on integrating or consolidating Aboriginal residents with a broader population. Rather, it is on encouraging long-term migration to the Pilbara of outsiders, who will not just live but die there, with a key performance indicator for the success of sustainability being ‘when the cemeteries are full’.⁴²

What the Pilbara studies also make clear is that, despite this marginalisation from the broader planning, there is vigorous and sustained Aboriginal activity happening across the region, mainly through organisations, and that Aboriginal people want to be included as equal partners in making decisions about the future of their country, at both local and regional levels. Ironically, the major resource companies like Rio Tinto, BHP Billiton, and Woodside understand this, even if they struggle to implement it adequately. Government has been slower to catch up. Yet a priority for government must be to find better ways of including Aboriginal people in decision-making for the future. The Pilbara studies, drawing on a wealth of other research in this area as well as on the analysis of the evidence produced by this project, allow for a number of recommendations as to how this might, and indeed must, be achieved.

Crucial to this process is that those involved in developing any Pilbara regional Aboriginal body take careful note of the experiences and lessons of other processes of Indigenous regionalisation and of the design principles that have been developed. This now has some history in Australia, as paper 5 discusses, with earlier ATSIC consideration of the redefining of Regional Councils as Regional Authorities; the establishment of the Torres Strait Island Authority; the thwarted attempts in the Northern Territory, after the abolition of ATSIC, to replace the ATSIC regional council structure with regional local governments; the Groote Eylandt Regional Partnership Agreement.

⁴² Pilbara Cities CEO, Chris Evans, ABC Radio National, Saturday Extra, 6 August 2011. As paper 5 comments, Pilbara Aboriginal people already, and often tragically, more than meet this criterion.

Smith (2008a) poses two alternative approaches that are in evidence in this regionalisation history: collaboration and coercion. Collaboration allows for, indeed actively supports, Aboriginal leaders and organisations in developing their own delineation of region and its constituent or overlapping sub-regions and the appropriate forms of representation and decision-making arising from this. Coercion is what it says: an interventionary imposition with decision-making claimed, or reclaimed, by government. This may be direct, as for example in the abolition of ATSIC and its regional councils and potentially regional authorities. Or it may be indirect, in the form of what Sullivan (2011: 80, 81) terms ‘audit fetishism’:

Because accountability has so permeated public practice, producing the ‘audit society’, its effects as an instrument of control and acculturation in Aboriginal development are masked by its apparently unimpeachable rationality.

As Sullivan goes on to suggest, accountability too needs to be reciprocal, with financial accountability only one aspect of a framework that includes assessments about, for example, whether people’s lives are getting better. Pilbara Aboriginal people also demand accountability, not control or coercion, from government. What is required from government is the development of an enabling, collaborative environment that, in working towards the establishment of a regional Pilbara Aboriginal voice, provides appropriate support but also ensures the creation of structured and effective pathways between this voice – in whatever form it takes – and the established Pilbara bodies: the shires, the Pilbara Development Corporation, Pilbara Cities, and any other regional organisation, such as a possible Pilbara Regional Authority or equivalent, that might eventuate.

6. Conclusions and recommendations

As discussed above and in paper 5, a process for developing a united Pilbara Aboriginal voice has begun. But also as discussed, the early momentum has dissipated. It is essential that there is adequate time for the development of a longer-term and sustainable model for partnership to be developed. But there is also a moment of opportunity in the now. DIA is working with Yamatji Marlpa for this to happen and that collaboration will provide a framework. Given the multiple responsibilities of both organisations, however, it will not be sufficient to achieve a satisfactory outcome in time for Aboriginal inclusion in current processes of planning by Pilbara Cities, the Pilbara Development Commission, or the shires. A more urgent process is needed in order to take account of the rapid pace of resource development, its impact on Aboriginal people in the region, and the absence in the WA Planning Commission’s 2011 *Pilbara Planning and Infrastructure Framework* of any detail at all about where Aboriginal people fit within the overall Pilbara Cities agenda, whether as Aboriginal communities or in the planning for the hierarchy of ‘cities’, ‘major towns’, ‘towns’, or villages. Given that Aboriginal people form a

significant part of those settlements even outside 'Aboriginal communities', this remains a glaring oversight (see paper 1 for Onslow as just one example).

There is need, therefore, for additional dedicated resources and people to undertake this task: a role for 'trusted outsiders' or 'funded brokers'. The Aboriginal Affairs Coordinating Committee took a step in this direction in appointing a Chief Operating Officer to undertake specified roles. In Roebourne, this resulted in the Roebourne Aboriginal Congress (paper 2). The problem is that the Chief Operating Officer, like DIA, was given a multiplicity of roles and sites that did not allow for ongoing intensive work towards consolidating the Congress. If government is serious about assisting in the development of a united Pilbara Aboriginal voice, the lessons identify a number of prerequisites.

One is to recruit at least two people, a man and a woman, wholly dedicated to the task. Their role would be to work with government and Yamatji Marlpa, but also, and most rigorously, with Aboriginal people on the ground: 'on the ground' in the literal as well as metaphorical sense. Payment could be jointly provided by the State and Commonwealth governments from FaHCSIA and Pilbara Cities, to be managed through DIA or the ICC. A second prerequisite is that the pair (or small team) would be independent of any specific government program and work to a senior reference group made up of members from responsible State and Commonwealth government agencies and relevant Pilbara bodies. This should include representatives from at least FaHCSIA/ICC, DIA, the Pilbara Development Commission, Yamatji Marlpa, Pilbara Cities, and probably Pilbara Regional Development Australia.

The project brief developed by this senior reference group would need to specify that a key objective of the project team would be to identify what a possible regional Pilbara Aboriginal entity would not do, in addition to working through what it would do: that is, it would not be in competition with functions already being undertaken by other Aboriginal organisations such as the Native Title Representative Body, management of CDEP while it continues or other employment-related projects, or the responsibilities of individual native title groups or their organisations and trusts. What such a body might do, depending on the result of input from Aboriginal people and its consequent authority, is have representation on each of the relevant regional structures, and identify mechanisms for the appointment of Aboriginal presence on any possible new Pilbara regional governance body.

A third prerequisite is that the funding for this project be adequate to cover full-time involvement in the Pilbara, intensive engagement, meeting costs where required, and regular travel.

Keeping in mind also that 'new governance institutions must be initiated by Indigenous people themselves on the basis of their informed consent' – the collaboration model – and that 'external coercion and the imposition of governance

institutions have little traction in changing behaviour or building commitment and responsibility' (Smith 2008b: 107), the senior reference group's recruited project team would need to ensure that a Council of Elders, the Aboriginal working group, and organisations are provided with clear information about the principles already identified for regional governance from other Australian Indigenous regionalisation examples. This would include the options of federation, aggregation, and representation, ensuring practical understanding and implementation of the key principles of relational autonomy, networked relationships, and subsidiarity (paper 5).

In the meantime, State and Commonwealth governments need to restrain their impatient impulse to introduce yet more new policies or interventions while the partnership with Pilbara Aboriginal people is being developed and implemented.

Finally, the overwhelming weight of evidence cited above and throughout this series of papers has significant implications for framing recommendations that provide for 'strategic and positive ways for Aboriginal people to pursue their aspirations through engagement/involvement in governance reforms in the Pilbara' and 'being able to draw the greatest benefit from...the establishment of the Pilbara Cities agenda'.⁴³

6.1 Approaches to enhancing Aboriginal participation in Pilbara governance

1. That the State and Commonwealth governments provide extra and substantial resources through DIA or the ICC for the establishment of a senior reference group with representation from relevant Commonwealth, State, regional bodies, and Yamatji Marlpa, to engage with the process of developing a model or models for a regional Pilbara Aboriginal voice, including:

- engagement by selective tender of two dedicated consultants, a man and a woman, highly experienced in Indigenous governance issues to work to the combined agency/regional bodies senior reference group. In accordance with current practice, these consultants would be auspiced outside government by Yamatji Marlpa.
- Planned consultations would include consideration of how Pilbara Aboriginal people see their relationship with the shires, Pilbara Cities, other Pilbara bodies, and a possible Pilbara Regional Authority, and the ways in which they wish to enter into effective partnership/s on a statutory or contractual status.
- Consultations would also explore alternative networked and layered models such as those set out in paper 5 (Imagining a region).

⁴³ The third objective in the remoteFOCUS brief for this series of papers.

- The Indigenous Implementation Board's recommendation (2011: 38, 52) for building governance capacity and investing in future leadership skills would be implemented parallel to this process.
2. From the beginning, that the State government commit to providing funding to such a regional Pilbara Aboriginal voice on at least the same basis as it funds the shires.
 3. That Pilbara planning processes and bodies, including Pilbara Cities and the shires, expand their acknowledgement of the central importance to the region of contemporary Aboriginal people, not just of Aboriginal culture and history.
 4. That the State government continue to provide ongoing support for current programs to improve relations between Aboriginal and non-Aboriginal people in the region, such as the Town-based Reserves Transformation Project being undertaken by DIA with funding support from Pilbara Cities.
 5. At the local level of Roebourne (see paper 3), that the Aboriginal Affairs Coordinating Committee support moves by the Chief Operating Officer to reconstitute the Roebourne Aboriginal Congress from its current dysfunctional organisation through a process of engagement with and representation from the town's principal organisations.

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11. Doing Washing in a Cyclone, or a Storm in a Teacup? Aboriginal People and Organisations in the Pilbara: An Overview⁴⁴

Dr Mary Edmunds

1. Introduction

In 2005, Taylor and Scambary published their research, *Indigenous people and the Pilbara mining boom*. Their statistical profile demonstrated all too clearly that, despite the boom economic conditions in the region, Pilbara Aboriginal people remained marginalised and poor.

For a complex set of reasons, Indigenous economic status has changed little in recent decades – dependence on government remains high and the relative economic status of Indigenous people residing adjacent to major long-life mines is similar to that of Indigenous people elsewhere in regional and remote Australia (2005: 1).

Just a year later – and without fundamentally challenging the situation as demonstrated by Taylor and Scambary – a number of Pilbara Aboriginal families were given notice by HomesWest that they were no longer eligible to keep the HomesWest houses that had been their home for a number of years. This was on the basis that the household income was above the income limits set as one of the criteria for public housing rental. The situation was not a widespread one, but it was significant: directly for the families involved, and more broadly for what it indicated in terms of changes that are taking place, albeit unevenly and erratically, in the economic conditions of Aboriginal people in the Pilbara.

Current statistics on the rate of Indigenous employment in the region remain partial, but in 2001, the employment rate was only 42.5%, with the Community Development Employment Program (CDEP) representing 12.3% of that figure (2005: 29). Numbers available from the major resource companies suggest that

⁴⁴ The analogy about washing in a cyclone is not original; it was a description offered by one non-Aboriginal Pilbara woman commenting on how the current boom feels to those who live there.

there has been some improvement over the past decade in the number of those in full-time jobs but figures from the Australian Bureau of Statistics put the figure for Indigenous employment nationally at 46% in 2010 (www.abs.gov.au/ausstats). The Pilbara figures may vary from this but probably not hugely. Sources of income in addition to welfare payments come from a variety of other activities. High on the list is the constant requirement by resource companies for heritage surveys. Other income is generated from some consultancy and contracting payments; sitting fees – often around \$500 a day – for native title Working Groups, negotiation and committee meetings; some payment for art works; distribution from trusts; and occasional gratuities. Although this range of partial income generation may be seen as a classic welfare trap (Holcombe 2009: 162), many Pilbara Aboriginal people prefer it to full-time employment. In some cases, as in the HomesWest situation, it raises unexpected problems.

On this occasion, one of the resource companies supported the families' case to the Department of Housing to be allowed to remain in their houses. More generally, DIA successfully lobbied for a two-year moratorium allowing tenants with income above the Homeswest threshold to remain in public housing (Department of Indigenous Affairs 2008). Nevertheless, the incident suggests that many of the practices taken for granted in the past, including the low income of Aboriginal people and their general access to public housing, may be changing. It is important to examine both the issues, the durability, and the potential impact, of such a substantial shift.

2. Who are Pilbara Aboriginal people?

Pilbara Aboriginal people are the people who belong to the Pilbara.

The Hamersley Ranges (*Gambulanha*) run from Gurrama, through Yindjibarndi to Banyjima country following the valley of the great Fortescue River which we call *Yarndanyirra* – 'sun mirror'. Long ago Yarndanyirra was dry, until *Barrimirndi* – the great water snake – came from the sea chasing after two boys who broke the Law. He travelled under the ground and at each place where he busted out of the dry river to smell where those two Law breakers were, Barrimirndi made *yindangali* (deep permanent pools). He finally got up at *Nhanggangunha* (Deep Reach) and lifted the Law breakers into the sky in a *wananggaa* (willy willy)...Today Barrimirndi rests deep down in the pool he made at Nhanggangunha. He is the protector of water places all along Yarndanyirra right up to Nhanggangunha. We don't think Barrimirndi is bad, we respect him because he's a giver of water, of life. He only gets wild if the laws for water places are broken (Juluwarlu 2004: 1).

This is the Black Range, we call it Black Range in white man's name. Our name is *Warttarra*...This place got a story. It's a man's story. Bloke's been travellin', comin' along and seen this smoke comin' – smokin' all that hill. It's a *Manguny* story, Dreaming story. This one comes from Hillside station right

through past Marble Bar, right up to Shay Gap and Nimingarra. It's been burnt on the top, that's why it's black. There's a Nyamal men's Law story about something which we can't say (Read and Coppin 1999: 20).

The Two Men [Western Desert *Wadi Gudjara*] travelled on until they reached a spot where they put down all their gear and camped. They named it *Djilbiriri*. Then they went on to a place where they pierced each other's nasal septum; they named it *Mulajidibura*, a big rock with a hole through it. They went on, and saw a small kangaroo lying down; they backtracked, then crept up on it and speared it. They cooked and ate the meat and called the place *Wirgudja* (Tonkinson 1974: 73).

These are just some of the creation stories from the many different language groups whose country covers what is now known as the Pilbara, stories that map the relationships between people, and between people and their country; invest that country, and particular named sites within it, with meaning; and set down the law to regulate people's social and religious life. Many of these stories of ancestral travel also establish the relationships between the different groups through whose country they journeyed, creating networks of ownership, responsibility, and reciprocity.

But country is not just sacred: it is economic, providing livelihoods for the groups over the millennia of their occupation; and it is home. For a hundred years after colonisation – which came late to this part of Australia – the pastoral industry added another level of meaning, and the stations redefined home for many people. So too did the emerging settlements, on Aboriginal reserves and a few missions. All these levels of identification remain significant for Pilbara Aboriginal people today, although some ties have proved more binding than others. There are also generational differences, with the sheep and cattle stations having lost much of their resonance for younger generations, whose main experiences have been shaped in the newer towns and settlements.

2.1 Population and residence

In the Pilbara today, there are Aboriginal people living in the larger towns: Port Hedland/South Hedland and Karratha. More live in or near the smaller towns, including previously closed mining towns: Newman, Tom Price, Paraburdoo, Roebourne, Wickham, Pannawonica, Onslow, Marble Bar, Nullagine. Jigalong is a former ration depot and mission that is now an Aboriginal community.⁴⁵ In

⁴⁵ As discussed in paper 5, the term 'community' is a contentious one, implying a unity of identity and purpose, and associated expectations that are often not appropriate (Peters-Little 2000: 3). The term has come to be used in Australia, however, to identify Indigenous settlements or towns, often on Indigenous land. The Australian Bureau of Statistics now

addition, there are some twenty other small Aboriginal communities of between fifty and one hundred people scattered across the region. A few of these are on Aboriginal-owned stations like Yandeyarra and Strelley/Warralong. Many fall clearly into even the most stringent definition of 'remote'.

In the 2006 census, the resident population of the Pilbara was around 41,000. The Indigenous population – that also includes some Torres Strait Islanders – was 5,632 or 13.7% of the total Pilbara population. With the rapid expansion in the resources industry since 2006, even with the hiatus generated by the global financial crisis in 2008-2009, the next census (9 August 2011) is likely to show a significant variation in these figures, and in the ratio of Indigenous to non-Indigenous people. Estimates of the total resident population for 2008 already show a rise in the two years after the 2006 census of around 5,000 to nearly 46,000 and another 5,000 for 2010 to 51,000. The projection for 2020 is an increase to 62,500 (Waller 2010: 3). These figures do not take into account the presence of operational and construction fly-in fly-out (FIFO) workers; they take the projections from 66,530 in 2010 to 96,200 in 2020 (Western Australian Planning Commission 2011: 10).

If these projections are realised – and the Waller figures for 2010 indicate that they may well be – then the proportion of Aboriginal to non-Aboriginal people may well decrease. This is despite the fact that the Indigenous population itself has grown steadily over the past couple of decades and continues to do so (Taylor and Scambray 2005: 13); and that, in 2006, the Pilbara Aboriginal population represented the third highest proportion of Aboriginal people in Western Australia (Western Australian Government, Department of Aboriginal Affairs 2011). In addition, the spread of Aboriginal people is varied, with towns like Roebourne, Marble Bar, South Hedland, Onslow with much higher Aboriginal populations than in, for example, Karratha or Dampier; and other areas such as parts of the East Pilbara where the proportion of Aboriginal people is much higher than the regional average. As Taylor and Scambray observe (2005: 13):

The simple point is that, over vast tracts of the Pilbara region, the 16 per cent global Indigenous share statistic⁴⁶ can be misleading as large parts of the country away from the demographic influence of urban centres and mine sites remain essentially Indigenous domains where Indigenous people and their institutions predominate.

uses the term 'Indigenous location' but 'community' continues to be more generally used as an indicator of such settlements and will be used in that way in this paper.

⁴⁶ The slight discrepancy between this 16% figure and the 13.7% of the 2006 census reflects the 2005 publication date of the Taylor and Scambray study. Their research was based on the 2001 census figures and consequent projections.

A large variation occurs even within towns. In South Hedland, for example, the 2006 census figures show a spread of Aboriginal residents across the town from eight to nine per cent in some areas to twenty-eight to thirty-three per cent in others.

2.2 People, language, country

Statistics are an important tool for regional understanding and planning. But they do not define the ways in which people, including Aboriginal people, see themselves. Pilbara Aboriginal people identify themselves across a range of other dimensions. One of these is by language group. According to the Wangka Maya Pilbara Aboriginal Language Centre, there are twenty-four languages still in use to a greater or lesser extent, although a number of these fall into the linguistic category of 'endangered' and a further seven have already become extinct in that they no longer have any speakers (Wangka Maya web site). Traditional owner groups align closely, though not rigidly, with the named language groups and their associated country, with the same or related languages being spoken in some instances by a number of different groups. Extensive intermarriage across groups provided individuals with a range of potential group and country affiliations, each of which could be invoked in different situations, around a central identity. Lola Young's mother, for example, was Kurrama, her father Panyjima [Bunjima], 'and I follow the Yinawangka [Innawonga] way. I never followed the two parents; I followed the grandfather, Yinawangka' (2007: 26).

Affiliation with particular stations is also important for many people who grew up, lived, and worked there. Often this allowed families to stay on their own country. Lola Young remembered (2007: 25, 26):

My name, my Aborigine name, is Ngamingu; I was born at Rocklea Station...on 12 February 1942...Some of my growing up was on Rocklea Station and some on Juna Downs Station. We was up and down to Juna Downs, because my father was a horse breaker and he used to break in horses on every station. Juna Downs was the place he used to stay most of the time; just come back to Rocklea to visit all the family, my grandmothers and everyone...Good life, growing up in the bush – free, nice and wild...We used to go riding all the time when there was two of us. Brother Nick would ride with Dad and I used to ride behind Mum on her horse. We used to go everywhere. Take a packhorse, go dogging in the back country, catch a fish, whatever you want. A good free life.

This sense of connection with particular stations is changing for younger generations who were born after the move by Aboriginal workers and families from the stations in the late 1960s and early 1970s. Some of this experience remains for those who still live in communities on Aboriginal-owned stations like Yandeyarra or Strelley/Warralong

A further level of identification came with the introduction of the Commonwealth *Native Title Act 1993 (NTA)*. On the basis of the requirements of the *NTA*, traditional owner and language groups have been recast as native title groups, with a stronger legal basis for looking after traditional country. The process has demanded a much more stringent and inflexible group identification than the broader language and traditional owner groupings. By the same token, it has offered tangible benefits to Pilbara Aboriginal people through the native title claims and determinations procedures. To date, there have been seven native title determinations. One was litigated in the courts; this was for the Ngarla and Yindjibarndi people, many of whom live in Roebourne. The other six, including the Martu determination in the east Pilbara, have all in the end been decided by the consent of all the parties. Twenty-eight claims are still to be finalised.

Native title does not give groups absolute rights over their country, but it does give them legal status and some negotiation rights over developments, including exploration and mining developments, on their country. Both government and resource companies, whether large or small, now have to engage with the native title groups on a regular and active basis as part of development and project planning. It has also become the basis of resource companies going beyond the legal requirements of the *NTA* and other statutes as part of confirming their social licence to operate. This makes Pilbara Aboriginal people integral to Pilbara economic development.

In addition, and despite the benefits, including substantial financial benefits, flowing from agreements between resource companies and native title groups, Pilbara Aboriginal people – though not their country – remain economically marginal to the dizzying levels of development activity and wealth generation currently sweeping across the region. Langton (2010) suggests that, while Australia is unlikely at the national level to experience the full impact of what Richard Auty identified as the ‘resource curse’ (1993), both Aboriginal people and long-term settlers in the Pilbara share the disadvantages of the effects of the resource curse in important ways: ‘their income is much lower, yet they must pay the same exorbitant housing, food and services costs, thanks to the localised inflation brought about by the boom’.

Langton goes on to suggest that ‘the effects of the resource curse in regional Australia should be a greater policy concern for all governments’. With the massive ramping up of resource development in the Pilbara, and its economic importance nationally as well as for the State, governments have responded. The result has been an explosion of bodies, policies, planning frameworks and strategies focusing on the region and on long-term regional planning for sustainability that attempts to manage the current urgent pressures and to expand the social and economic base beyond resource dependency.

3. The broader Pilbara context

3.1 The current boom

The astonishing scale of the current boom can and has been measured in figures, with everyone speaking in superlatives: the amount of iron ore being dug up and exported; the levels of planned project expansion and associated infrastructure of port and rail; the number of new workers flocking into the region, whether temporarily resident or fly-in fly-out; the inflated, seductive wages for those who have resource sector jobs; the impossible cost of accommodation, where it is available. But it is perhaps symbolised by the grandiose names given to some of the newer projects, in contrast to the more modest or descriptive names of older ones: from Tom Price and Newman to Pluto, king of the underworld, who raped Persephone and abducted her to Hades; and Gorgon, the snake-headed sisters whose look could turn people to stone.

The regional implications of these developments were set out in a letter from Collene Longmore from the Pilbara Area Consultative Committee⁴⁷ to the then Prime Minister, John Howard, in October 2007. She described a situation that has only got worse:

Accommodation and land is so out of control in the region that rents are consistently \$1500-\$3500 per week for an average 4 bedroom property...Industry is constrained as they can't house their workforce for continuing operations, planned maintenance periods and expansion...The not-for-profit sector is steadily declining...In this market, unless you can provide housing you have little chance of securing employees...Agencies (at all three tiers) appear paralysed with the enormity of the situation therefore do nothing or provide small investment funds in an adhoc manner which achieves little.

She also refers to the urgency for response:

PICC [Pilbara Industry's Community Council] states that the issues it seeks to address are long-term challenges for the Pilbara community and need a dedicated and coordinated response. I agree, but proffer that although the challenges may be long-term they are also immediate and require firstly a thoughtful and coordinated immediate *financial* response that may best be met through Federal, State, Local Government and Industry agreement. Secondly a commitment from parties to coordinate and collaborate to remove the bureaucratic barriers that stall addressing the issues.

⁴⁷ Now Regional Development Australia. Pilbara.

3.2 Government response and the State Royalties for Regions program

Since this 2007 letter, there has been a proliferation of Federal and State bodies tasked with addressing Pilbara issues, although the achievement of an effectively coordinated response and the removal of bureaucratic barriers appears to be elusive. This was hinted at in the 2010 report to the Minister of the Indigenous Implementation Board (Department of Indigenous Affairs web site, Boards and Committees). The Board was established for a three-year term by the Western Australian Government in 2009 to advise it on how to address the underlying causes of Indigenous disadvantage.⁴⁸ It was chaired by Lieutenant General John Sanderson. In his Introduction to the 2010 Report, he comments (p3, 4):

The Board has attempted to keep itself fully informed of the progress on the initiatives emerging from Council of Australian Governments' Indigenous agenda and to align its strategy for engagement with Aboriginal people with that agenda where it is possible to do so...

The Board continues to seek engagement with the Aboriginal Affairs Coordinating Committee (AACC – the Directors General group) and the newly appointed Western Australian Aboriginal Advisory Council (WA AAC). Unfortunately, the building of these alliances continues to be hampered by a lack of clear definition of an agreed strategy for addressing the needs of Aboriginal people and the ongoing problem of explaining exactly how commitment and expenditure of resources are determined in Western Australia and at the federal level. This work needs to be advanced with some urgency...

This assessment with respect to Aboriginal matters sits within, and is symptomatic of, the broader effects of the entropic features of governance in the Pilbara, and regional Australia, generally. Nevertheless, notable changes for the Pilbara in the WA Royalties for Regions program are indicative of a shift in government priorities even over the past two years. In 2008, for example, the initial funding under the Country Local Government Fund – only one of three funds available under the Royalties for Regions scheme – was \$100 million. In 2008-2009, the Pilbara had received only \$6.7 million, or 7% of the total (CME 2009). Criticism by the Chamber of Minerals and Energy focused on what they identified as two disparities. The first was 'the strong bias to the more populated rural areas' of the Wheatbelt and south-east and southern regions which, taken together, received a total of 61% of the funding. The second disparity was the 'dramatic' contrast between the Country Grants Fund allocations and royalty revenues (2009:2, 3).

⁴⁸ The Board held its final meeting and presented its third and final report to the Minister in February 2011, just two years after its establishment.

The Pilbara region dominated royalty payments providing about 78% of the total followed by the Goldfields-Esperance region with 9.3%. With the Kimberley region, the three most isolated regions from Perth provided 91% of the State royalty revenue.

The input from the Country Grants Fund fluctuated over the next two years – \$0.14 million in 2009-10 and back to \$6.5 million in 2010-11 – but the total for the Pilbara from the three Royalties for Regions funds in 2010-11 reached \$334.7 million. A major part of this funding – \$253.2 million – is allocated for the Pilbara Cities initiative (Government of Western Australia. Department of Regional Development and Lands 2011).

The Pilbara Cities initiative was announced by the Premier and the Minister for Regional Development in November 2009 as a central component of a broader plan to normalise living conditions: to use some of the vast wealth produced in the region for the social benefit of the people who live there, rather than for those in metropolitan centres, and to make newcomers want to stay. The objective is to have two cities, Karratha (Karratha and Dampier) and Port Hedland (Port Hedland and South Hedland), each with a population of 50,000. Newman would become a sub-regional centre; Tom Price, Onslow, and Wickham ‘major towns’; Paraburdoo, Roebourne, and Pannawonica ‘towns’; Point Samson, Marble Bar, Nullagine, Cossack, and Shellborough ‘villages’. Aboriginal ‘communities’ – unnamed – sit outside this particular planning hierarchy, in a discreetly acknowledged too hard – ‘challenging’ – basket (Western Australian Planning Commission 2011: 33).

3.3 From village to ‘major town’: Onslow

The proposed promotion of Onslow to a ‘major town’ is a vivid demonstration of the potential impact of the Pilbara Cities plan and of its ongoing integral relation with resource development, despite efforts to unlink the two for the longer term. While Chevron has been producing oil on islands off the coast from Onslow – Barrow Island and Thevenard Island – for more than 45 years, the development of the Gorgon and Wheatstone liquefied natural gas (LNG) and domestic gas projects is about to transform the town.

Like the town of Roebourne, Onslow used to be the administrative centre of the shire – in this instance, the Shire of Ashburton – but this was moved to Tom Price in 1990, taking the associated jobs and residents with it. Census figures for 1996 and 2006 suggest that the removal of the shire’s administrative centre had little effect on resident numbers. The 1996 population was 588; that of 2006, 573. Of this 573, 192, or 33.5% of the town population, were Aboriginal people. Many of these live in the Bindi Bindi Aboriginal community on the outskirts of the town.

Old Onslow was established in 1883, some twenty years later than Roebourne, to serve as a port at the mouth of the Ashburton River for the export of wool from the

surrounding stations. In 1925, after a number of destructive cyclones, the town was relocated to its current site. Although much of the surrounding country is still covered by pastoral leases, the pastoral industry is now only one of a number of other activities, mainly fishing and tourism which, despite being off the North-West Highway route, attracts visitors in particular to the Mackerel and Thevenard Islands. Solar salt is produced and shipped by Onslow Salt.

Onslow is in Thalanyji country. In 2008, the Federal Court found that native title continues to exist over much of the area claimed, including pastoral leases and some land in and around the town. There are five Indigenous Land Use Agreements dealing with the practical matters of co-existence between the Thalanyji native title holders and five of the station owners. Eight industry bodies with interests in the area were parties to the determination but, even a few years ago, their interests were relatively low profile, apart from Onslow Salt and Chevron's projects off the coast. Buffered from its nearest regional centre, Karratha, by some 200 km of indifferent roads, Onslow remained a bucolic coastal village, with a primary school, a small public hospital dealing mainly with emergencies and acute care (www.myhospitals.gov.au/hospital/onslow-hospital/), a police station and lockup; one supermarket in the old Elders Smith building,⁴⁹ a pub, a small motel with donga accommodation fronting the beach, and Nikki's deservedly much-praised (and enjoyed) beach-side restaurant. There are periods of increased activity, mainly during the tourist season, and an irregular influx of people for meetings with or for resource companies, for native title negotiations, or for other matters of regional concern.

This will all change with the development of Onslow into a 'major town'. The Western Australian Planning Commission's draft plan does not suggest a likely or projected figure for Onslow's growth, although it places it below the 'sub-regional centre' of Newman with its target population of 15,000. Instead, its 'population and footprint...will be largely determined by mining and oil and gas related industry in the locality' (2011: 11, 27):

The town is on the threshold of a significant expansion as the locality is considered a favourable area to establish gas processing industries to monetise gas resources from the North West Shelf by production of LNG for exportation to overseas markets and domestic gas for the local market.

In 2008, Chevron selected a preferred site at Ashburton North, 12 kilometres west of Onslow, as the location for its Wheatstone LNG and domestic gas plant. The company expects that the project will create about 6,500 direct and indirect jobs at

⁴⁹ The original Elders Smith building burnt down in December 1978 and was rebuilt and reopened in July 1979.

the construction peak (Chevron Australia web site). At present, there is no major fly-in fly-out program, but there is already 'a significant number of transient workers' who occupy 'rooms and units in the town's [limited] commercial visitor accommodation and private dwellings' (Western Australian Planning Commission 2011: 27). The scenario – taking into account the scale of the comparable Pluto development on the Burrup – will bring in large numbers of construction workers and require further transport and other infrastructure. It is beginning to be uncomfortably reminiscent of the impact on Pilbara Aboriginal people, especially in Roebourne, of the lifting of the iron ore embargo and the mining development of the 1960s.

There are, however, significant differences. All levels of government – Commonwealth, State, and local – as well as industry bodies are taking an active role in planning for the Pilbara and the management of current, proposed, and expansion projects. This has resulted in activity levels of some complexity. In addition to normal departmental responsibilities for their various portfolios – health, housing, education, land management, and so on – the State government has established or redefined a number of specialist bodies to oversee Pilbara matters.

3.4 WA State Government and industry arrangements

3.4.1 The Pilbara Regional Council is a statutory body established under the *Western Australian Local Government Act 1995*. It was formed in 2000 and is made up of representatives from the four Pilbara shires: Ashburton, East Pilbara, Roebourne, and the Town of Port Hedland. Its aims are to take a regional approach to service delivery and to act as a collective voice to government and industry. In 2010, it received funding to three projects to be carried out in the following twelve months: improvement of local government services to Indigenous communities (\$180,000); the preparation of a Regional Business Plan to investigate shared service delivery between the four local governments (\$170,000); and the promotion of larger strategic infrastructure development and asset preservation and renewal (\$2,275,067 from the Country Local Government Fund) (Pilbara Regional Council Newsletter 2010: 1).

3.4.2 The Pilbara Development Commission is one of nine Regional Development Commissions established under the *Regional Commissions Act 1993* and supported by the Department of Regional Development and Lands. The role of the Commissions is to facilitate and coordinate the development of the region in which each one is based (Duncan 2010: 10). The *Review* commented that 'if regional governance in Western Australia were to be measured against jurisdictions elsewhere in Australia, then the RDC model, with its local staff, CEO and board, would stand out against all other systems, which are broadly centralist in nature' (2010: 58).

3.4.3 The Regional Development Council consists of the chairpersons of the nine Regional Development Commissions, two local government representatives, and the Director General of the Department of Regional Development and Lands. It is the peak advisory body to the Western Australian Government on regional development issues (Department of Regional Development and Lands web site).

3.4.4 The Pilbara Regional Planning Committee is one of six regional planning committees set up to advise the WA Planning Commission, the statutory authority with statewide responsibilities for urban, rural, and regional land use planning and land development matters. The Commission is supported by the Department of Planning (Department of Planning web site).

3.4.5 The Pilbara Industry's Community Council (PICC) was set up in 2006 with member companies BHP Billiton Iron Ore, Chevron Australia, North West shelf venture, Rio Tinto Iron Ore, Woodside. Fortescue Metals Groups (FMG) is also a member. Although PICC has become less active as other programs have been put in place, its key commitments were twofold: to increase Indigenous participation in employment in the Pilbara and the sustainability of Pilbara towns. PICC saw collaboration with government as vital to ensure that both sectors worked together (Parker 2008: 6).

3.5 Commonwealth government arrangements

3.5.1 The Council of Australian Governments (COAG) National Partnership Agreement on Remote Service Delivery came into effect in January 2009 as part of the Closing the Gap commitments. None of the priority locations in Western Australia is in the Pilbara. The 2009 Report by the Coordinator General for Remote Indigenous Services therefore deals only with the priority locations, which are all in the Kimberley.

3.5.2 Regional Development Australia (RDA) was established in 2008 to bring together all levels of government to support the growth and development of regional Australia (Regional Development Australia web site). It is supported by the Department of Regional Australia, Regional Development and Local Government and is made up of a network of 55 non-profit, community-based committees, derived from the previous Area Consultative Committees (ACCs).

3.5.3 Regional Development Australia Pilbara Committee (Pilbara RDA) was previously the Pilbara Area Consultative Committee, now part of the RDA network.

3.5.4 The Office of Northern Australia was also established in 2008 to provide policy advice to the Australian Government on sustainable development issues in, or affecting, northern Australia. One of its immediate priorities was the establishment of the Northern Australia Ministerial Forum, which held its inaugural meeting in December 2010. One of its five key themes is Indigenous employment and skills

shortages (Northern Australia Ministerial Forum joint communiqué, 13 December 2010).

3.5.5 Indigenous Coordination Centres (ICCs) were established in 2004 as part of the Commonwealth government's turbulent changes to the structure and administration of Indigenous Affairs. This was part of the 'whole-of-government' approach being undertaken and was related to the abolition of ATSIC (see paper, Introduction) and the transfer of ATSIC staff and programs – the mainstreaming of Indigenous programs – to other Australian Government Departments. They are designed to be a service delivery hub for the new arrangements and to take the place of ATSIC State and regional offices.⁵⁰ Since December 2005, the ICCs report to FaHCSIA State Managers (Gray and Sanders 2006; KPMG 2007). The Pilbara ICC office is located in South Hedland and, unlike the previous ATSIC Regional Councils which combined the East Pilbara with other Western Desert groups, covers the whole of the Pilbara.

3.6 Regional planning

The WA Planning Commission's (Pilbara Regional Planning Committee) 2011 draft *Pilbara planning and infrastructure framework* is the latest, and only one but perhaps the most ambitious, of a number of regional plans that have emerged in recent years. Many of the latter focus on funding for selected local or regional projects.

In 2008, the Pilbara Area Consultative Committee – now Pilbara RDA– produced The Pilbara Plan, identifying 43 'essential projects' in conjunction with the Pilbara Development Commission and the Pilbara Regional Council. This formed the basis of RDA Pilbara's August 2010 *Preliminary Pilbara Regional Plan*.

In 2008 and 2010, the Pilbara Industry's Community Council commissioned reports, *Planning for resources growth in the Pilbara*, focusing on employment and population projections to 2020 (Heuris Partners 2008; Waller 2010).

In 2009, the Pilbara Development Commission published its *Strategic Plan 2010-2013*. Also in 2009, the State Government announced the Pilbara Cities blueprint; the Pilbara Regional Council finalised its *Plan for the future 2010-2014*; and the Minister for Regional Development, Brendan Grylls, set out the Royalties for Regions Pilbara Revitalisation Plan (Ministerial media statement 11/5/09).

Much of this intense planning activity was given a major boost by the 2008 establishment of the Royalties for Regions program, that commits the government to return the equivalent of 25 per cent of the State's mining and onshore petroleum royalties revenue to regional Western Australia. The development is a welcome one,

⁵⁰ There was no replacement of the elected ATSIC Regional Councils.

and it is clear that the Pilbara is served by range of State, Commonwealth, and industry bodies. What is less clear is the extent to which the proliferation of bodies, policies, plans, amounts to a coherent and effective approach to regional issues, or whether it has created the policy turbulence of multiple lines of authority, ever changing policy and funding guidelines (deadly no.3), and the churning of different levels of territorial authority (deadly no.6 or 5).

For Aboriginal people, there are even more levels of complexity to be dealt with. But, in some ways, that has become business as usual.

3.7 Aboriginal engagement

In September 2009, the WA Indigenous Implementation Board held an Indigenous Pilbara Dialogue. Barry Taylor from Ngarda Ngarli Yarndu Foundation chaired the meeting. In his introductory comments, he made the point that Indigenous leaders 'could choose to engage with government and seek to change the current unsatisfactory state of affairs, or believe that government was not serious about change, and focus their energies elsewhere'. He stated that, by coming to this Dialogue, 'all present had recognised the need to do Indigenous business differently' (Indigenous Implementation Board 2010).

One of the suggestions made during the Dialogue discussions was that 'We need a governance hub for the Pilbara, based on our four Aboriginal cultural blocs, a regional governance body'. At the end of the second day, those present passed a unanimous motion as follows:

That a Pilbara Indigenous one stop shop (the governance hub referred to earlier in the workshop) be created to speak to all levels of government:

- Federal;
- State; and
- Local government.

This organisation would do business with:

- miners;
- explorers;
- tourist operators; and
- other relevant agencies.

This organisation would include Indigenous:

- Elders;
- Community leaders (who may or may not be elders); and

- CEOs of Indigenous organisations.

Only Indigenous people would have voting rights.

There is Aboriginal representation, including from the Pilbara, on a number, though not all, of the State bodies discussed above. The then Indigenous Affairs Minister, Kim Hames, also re-established the Western Australian Aboriginal Advisory Council in 2009. The Council is a requirement of the *Aboriginal Affairs Planning Authority Act 1972* but had not sat for several years. Its State-wide membership is exclusively Aboriginal, and its role is to provide independent advice to the State Government on Indigenous matters (Department of Indigenous Affairs web site). The twelve members are drawn from the State's different regions and include one person from the Pilbara. The *Aboriginal Affairs Planning Authority Act 1972* also requires that Board members of the Aboriginal Lands Trust are all persons of Aboriginal descent. The situation is similar for the membership of the Aboriginal Cultural Material Committee, which makes decisions about cultural heritage and sites, and advises the Minister in relation to section 18 applications under the *Aboriginal Heritage Act 1972*. These are applications for disturbance or destruction of Aboriginal sites for the purposes of land development, including resource development, and are a regular and fraught issue for Pilbara Aboriginal people. A Pilbara representative was a recent Chair of the committee.

The idea of a specifically Pilbara regional Aboriginal voice has, nevertheless, been suggested from time to time. There have also been a number of proto-types, with a more limited regional focus. In 1971, for example, the first bush meeting to bring together Aboriginal groups from across the region in a process based on long-established traditional gatherings of related groups was held at the Yule River. Bush meetings proved an important part of wider Aboriginal decision-making for some years, and people at the 2010 Indigenous Pilbara Dialogue called for its return. In 2006, the native title groups negotiating with Rio Tinto Iron Ore formed themselves into a Central Negotiating Committee (CNC) and successfully pushed Rio Tinto to raise its offer of financial benefits to all the groups. After a hiatus in which the CNC was incorporated and failed as Marnda Mia (see paper 5), this process has resulted in the establishment of a new Regional Aboriginal Corporation that will operate under the auspices of the Native Title Representative Body, Yamatji Marlpa Aboriginal Corporation (Yamatji Marlpa Aboriginal Corporation 2010).

Other moves to operate at a more regional level have been through Regional Partnership Agreements (RPAs). These were part of the new arrangements for Indigenous Affairs put in train in 2004 that also established the ICCs. One of the roles of the ICCs was to negotiate RPAs based on the principle of shared responsibility and mutual obligation or reciprocity for service delivery (Australian

Human Rights Commission 2004).⁵¹ There are two RPAs in the Pilbara, both on Indigenous employment: the Hedland RPA in 2006 and the Ashburton/Roebourne RPA in 2007 (Department of Indigenous Affairs 2008). Both were signed by the Commonwealth, the WA State Government, and a range of industry and regional bodies and Indigenous organisations. Neither has had particularly notable results. On the other hand, the Pilbara Aboriginal Contractors Association, incorporated in 2009 with the assistance of BHP Billiton Iron Ore, the Pilbara Development Commission, the State Government, and Royalties for Regions, is experiencing some success as an emerging peak industry association.

To date, however, all these loose associations of Pilbara groups tend to be focused on the central and west Pilbara. East Pilbara groups such as the Martu are, for example, notable by their absence, though they form part of the Pilbara administrative region and, from the point of view of Aboriginal people, have important cultural links with groups in the central and west Pilbara as well as with other Western Desert groups (see paper 4). At the same time, Martu, like many other Pilbara groups, have been engaged in the processes of agreement-making that have come to play a major role for Aboriginal groups, particularly in relation to resource development. The development of a culture of negotiation and agreement-making has been one of the crucial changes arising from the recognition of native title.

Prior to the *Native Title Act 1993*, the only statutory protection in Western Australia for Aboriginal rights in traditional country was the fairly weak protection of the *Aboriginal Heritage Act*. There were few constraints on mining companies. Where there was resistance, as there was at Noonkanbah in the West Kimberley in 1980, it proved to be spectacular (Kolig 1987). Although the early iron ore mining companies, Hamersley Iron (now Rio Tinto) and BHP, put in place various assistance programs for local Aboriginal people, there was no statutory requirement for them to seek approvals from traditional owners. The *Native Title Act* changed that. In addition to providing certain rights to native title holders or registered native title claimants, the mediation requirements of the native title process has led gradually to a culture of agreement-making as the preferred way of doing business.

Although this approach was slower to take off in Western Australia than in some other parts of the country, Western Australia did see the first big mining agreement between a mining company and native title groups. This was the 1997 Yandicoogina Land Use Agreement – the Yandi agreement – between Hamersley Iron and the combined Nyiyaparli, Bunjima, and Innawonga native title claimants. Gumala Aboriginal Corporation was established in 1996 as the groups' collective negotiating

⁵¹ The successful Groote Eylandt RPA, first signed in 2008, is dealt with in some detail in paper 5.

body, providing an initial model for the development of an effective combined voice (see paper 3).

The Yandi agreement was also the first WA mining agreement to deliver substantial and ongoing financial benefits to Pilbara Aboriginal people.⁵² This has now become the norm. Most of the money is, however, held in charitable trusts, with few and limited direct payments to individuals, leading one of the group to observe that, ‘we’ve got the richest trusts, and the poorest people’ (Scambary 2007: 165). On the other hand, the need for resource companies to reach agreement with native title groups has led to a practice of sitting fee payments for meetings, as well as travel and accommodation costs. Different companies have offered different sitting fee rates, but \$500 a day has become common. For people involved in a range of negotiations and committees, this can become regular part-time income (Holcombe 2009: 162).

Aboriginal people, like everyone else in the Pilbara, are affected by the development and planning busyness infecting government and industry. But there is a sense that, in some ways, they’ve seen it all before, including its cyclical fickleness.⁵³ Their involvement, and their stake, in the process is now more intense than in the past. But resource development is just one dimension of their concerns and does not encompass the whole.

4. Issues as expressed by Pilbara Aboriginal people

On a cloudless May day in 1997, around 300 people attended a mediation conference on country for the Martu native title claim. There was some tension and some nervousness about how the meeting would go. There had been a deep rift in the wake of the 1946 Pilbara Aboriginal workers’ pastoral strike. The strike had been led by Clancy McKenna, Dooley Bin Bin, and Don McLeod but, a decade later, ‘leadership and internal conflicts came to a head with different families aligning themselves with two factions’ (Read and Coppin 1999: 123). One group, including Bin Bin, chose to continue with McLeod, establishing themselves as Nomads Pty

⁵² This has now drawn the attention of the Australian Taxation Office and the ATO and Commonwealth governments are examining the potential tax implications.

⁵³ As just the most recent example, over the period up to 2008, the mood of the iron ore mining companies was that the demand from China in particular would sustain the boom and the good times for many years to come. Then came the global financial crisis. Although Australia escaped its worst effects, the GFC hit expansion plans, stymied the BHP Billiton proposed takeover of Rio Tinto, and precipitated many redundancies in its wake before the situation changed once again.

Ltd. They later acquired Strelley and a string of neighbouring stations.⁵⁴ ‘The Split’ led to ongoing bitterness amongst the groups and the Nomads had filed a competing claim that overlapped part of the Martu native title claim. The meeting at Duck Pool was the first time in forty years that many in the groups had come together again.

As had become usual in the early native title plenary mediation conferences, the meeting was attended by all the parties over several days, as well as many members of the claimant group. The first day was attended only by the Aboriginal parties. Within the mediation process, each party was given the opportunity to speak about their position and their concerns and whether any progress had been made or was likely to be made in resolving the overlaps. Don McLeod was there, but when it came to the Nomads’ turn to speak, old man Snowy Judamaia stood and came forward. Despite his frailty, his presence was powerful. His words were compelling. He spoke in language – later translated for those of us unable to understand – of the need to end the forty years of fighting and mend the pain, for the families to come together once again, for the next generations to know that they could work together to look after their country and their kids, and make a good place for all the families, and for blackfellas and whitefellas to be friends.

On the night before the meeting, the Martu and Nomads had set up separate camps. At the end of the first day, the Nomads moved to join the Martu. That evening, people saw a bright shooting star. And that night, Snowy Judamaia passed away.

It was another five years before the Martu had their native title recognised by the Federal Court (paper 4) and Aboriginal people have articulated many broader concerns. These include better houses, better education, jobs, especially for young people; opportunities for business development and contracting; more control over what happens on their traditional country, particularly the protection of cultural heritage; better services, including better access to health services and aged care; more of the good things enjoyed by many non-Aboriginal people. A more comfortable present, and a future.

But the matters touched on by Snowy Judamaia remain central to the issues that continue to be expressed by Aboriginal people: the priority of family; strong ways of dealing with relations within and between groups, even when there are disputes; the importance of working together; the necessity of holding on to traditional law and of looking after country and protecting cultural heritage; and the need to live with white Australians, but on equal terms and keeping strong Aboriginal ways.

One of the ways that some of the older Aboriginal people have worked to achieve these aims is by moving back onto country, or at least away from the towns.

⁵⁴ One of the other groups, lead mainly by Njamal men including Peter Coppin, later acquired Yandeyarra station (Read and Coppin 1999; McLeod (1984).

Cheeditha settlement near Roebourne, for example, was chosen as a refuge by some families when Roebourne Aboriginal people were moved from the old Reserve into town – to the Village – in 1975 and alcohol had become a problem (Olive 2007: 31):

‘We were with people [on the reserve] in the fifties and sixties, but people were drinking and a whole lot of things...I came to the village when the people had moved from the reserve...But we moved back this way [Cheeditha Community] and then stayed in the woolshed [a station building nearby] to get away from the village, and from village life. Yeah, just get away from the drink.’

These issues have not gone away. A more recent settlement, chosen out of Roebourne for the same reasons, is the 5 Mile, home for a group of Bunjima families (Mingulltharndo Aboriginal Corporation). Small communities or outstations attempt to serve the same purpose: Youngaleena, Parrngurr (Cotton Creek), Punmu, Kiwirrkurra, to name but a few. Not all manage to keep their young people; not all are functional. Some of the remote communities and Aboriginal-held leases for stations or reserves⁵⁵ have been more successful in preserving some continuity between the generations. Yandeyarra and Strelley/Warralong have enough resident children to support remote primary schools, as does the community at Punmu, made up of families who separated from Strelley in the early 1980s, and now services an outstation at Kunawarritji (Well 33), 180 kilometres to the east on the Canning Stock Route. Strelley Community School, begun in 1976, was the first of fourteen Aboriginal Independent Community Schools operating in Western Australia (Aboriginal Independent Community Schools web site).

Other stations, often those closer to towns, have been less successful in attracting or keeping young people. Even in the 1980s, a program for young people from Roebourne to work on Chirritha, one of the Mt Welcome stations along with Woodbrook, held little attraction. A 2005 review of WA Rangelands found that the stations run only a small number of cattle and during the past few years have barely been profitable’ (Rangelands NRM Co-ordinating Group 2005, Appendix VII). More generally, the theme of the need to get young people out bush and teach them traditional law has been reiterated by older Aboriginal people since people moved off the stations. It came up again in the Pilbara Indigenous Dialogue: ‘Some families

⁵⁵ There are eight Aboriginal-held pastoral leases in the Pilbara, although some of these include more than one named station, for example, Strelley and Mt Welcome both cover several. Yandeyarra is a lease granted to the Mugarinya Aboriginal Corporation by the Aboriginal Lands Trust. Woodstock/Abydos is a Protected Area under section 19 of the *Aboriginal Heritage Act* because of its wealth of rock engravings. All WA pastoral leases expire and are due for renewal in mid-2015. It appears that the Aboriginal-held leases are all likely to be renewed (Pastoral Lease Renewals Project, Project Leader, pers. comm., 22 March 2011).

do the right thing, but their children get dragged down by other kids running wild. Spending time on outstations can help in this area, by reducing the bad influences of towns. We need to take our children out bush again’.

But there is also the constant theme of the need for young people to get jobs, both in the mining industry and elsewhere. Most of the agreements negotiated between native title groups and resource companies include commitments to training and employment, bolstered by support for school and work readiness programs. In 2007 for example, BHP Billiton Iron Ore set itself the target of 14 per cent Indigenous employment across its Pilbara operations by 2012, and to working with its contractors to achieve 14 per cent indirect Indigenous employment (2008 Sustainable Indigenous Relationships Program). In 2011, its direct and indirect number of employees is just under 800. In 2009, Rio Tinto had 650 Aboriginal employees in its iron ore business, making it the largest non-government employer of Indigenous workers in the State. In the same year, the company awarded a \$200 million four-year contract at its Western Turner Syncline deposit to a joint venture between Eastern Guruma native title holders and contractor NRW. Part of the contract is to raise Aboriginal employment levels to 27 per cent over the four years (Rio Tinto media release 18 December 2009). As we have seen, one of the principal objectives of the Pilbara Industry’s Community Council (PICC) is ‘the development of a shared vision and strategy to increase Indigenous participation in employment in the Pilbara, including strategies to reduce gaps in education and training, health, and housing’. The two Pilbara Regional Partnership Agreements focus on Aboriginal employment. In 2006, FMG established VTEC, a Vocational training and Employment Centre based at Pundulmurra in South Hedland.

Taylor and Scambary identified two of the major impediments to achieving these goals: education and health (2005: 148-149):

While the historic reality is that many older indigenous adults in the region have never attended school, it is equally true that many of those presently of compulsory school age do not attend school on a regular basis...Against the estimated requirements for Pilbara Iron [Rio Tinto Iron Ore] and BHP Billiton alone for an additional 665 Indigenous workers by 2012 to meet Indigenous employment targets, this suggests that the local flow of individuals with capacity to compete in the mainstream labour market is barely sufficient to match labour demand. Somewhat similar calculations can be made in regard to VET [Vocational Education and Training] sector output, although here the indications are more promising...

At least part of the project to enhance Indigenous participation in the economy of the Pilbara is a need to address the effects of low socioeconomic status on ill-health...Estimates generated here of the numbers likely to be excluded from

regular (or even any) employment due to poor health point to a figure that could be approaching the size of the mainstream Indigenous workforce.

A related issue for the mining companies relates to the limited numbers of potential Aboriginal employees: the companies are all competing for the same pool of people. In addition, not all of those wanting jobs and with the necessary skills want to work in the mining industry. Nor do communities want all their young people working there; many have expressed the desire to see them get jobs that will assist people in the communities and contribute to community life, giving rise to a tension between 'the imperative to maintain cultural identity and the potential cultural assimilation implied by their increasing integration into a market economy' (Scambary 2007: iv).

This tension can sometimes erupt into a very public dispute as has occurred in Roebourne with different responses by different Yindjibarndi people to a proposed agreement with FMG in relation to the development of the Solomon hub. One group is wholly opposed to FMG's offer and the damage that will be done to Yindjibarndi country (Yindjibarndi Aboriginal Corporation Newsletter, nd: 4):

FMG's open-cut mining at Gambulaynha, right through Ganyjingarringunha Ngurra will destroy the sacred resources we need in Birdarra Law, especially for the Garliwinyji Ngurrarangarli, and it will destroy the Maliya Thalu (honey site).

The other group wants to accept the offer on the basis of the opportunities it will create, especially for the young people: 'FMG is offering to train our people and to bring them to their level, to learn to read and write and get them out into the mines and work' (ABC News 2 Feb. 2011; SBS *Living Black* 27 March 2011). This was echoed by the participants in the Pilbara Indigenous Dialogue: 'There is a passionate belief in the importance of employment for Aboriginal people, especially young people, and of creating a strong Aboriginal community'.

These are very difficult issues, with no easy solutions. Nevertheless, there are indications of some of the ways in which Aboriginal people themselves want to do business. Central to this, in the Pilbara as elsewhere in Indigenous Australia, is the concept of partnership, Snowy Judamaia's vision for blackfellas and whitefellas to be friends, but a partnership of equals. To quote the Pilbara Indigenous Dialogue again: 'We need to form partnerships with white people, while remaining united and staying in control of our own affairs'.

A practical manifestation of this is the growth of Pilbara Aboriginal contractors and businesses. Many of these are now members of the Pilbara Aboriginal Contractors Association, a not-for-profit organisation incorporated in February 2009 to advocate for and support Aboriginal businesses. The highest profile of these is Ngarda Civil and Mining, which has won contracts with BHP Billiton, Rio Tinto, Newcrest, and Woodside among others, working in partnership with Leighton

Contractors. Other companies, like Civil Road & Rail SX5, are partnerships between Aboriginal and non-Aboriginal entrepreneurs. Another regular theme emerging from discussions with those involved in contracting is one identified some years ago in relation to the then developing Northern Territory Aboriginal businesses: the preference of people to work for themselves, or for their own group (Robert Lawrence, pers. comm.). In the Pilbara, the preference is also to work, or invest in projects, on people's own country. The Rio Tinto Western Turner Syncline contract with the Eastern Guruma is just one example of this.

Partnership is also central to the Graham (Polly) Farmer Foundation's education enrichment projects. In the Pilbara, they have projects in Karratha/Roebourne, Port Hedland, Newman, and Tom Price. All involve the Commonwealth and State education departments and either Rio Tinto or BHP Billiton. Crucially, local Aboriginal community members are partners and, in Tom Price, Gumala. The model is one that is achieving substantial success. Figures showing where students were in 2010 included Pilbara sites. Since the Karratha/Roebourne (Gumala Miruwarni) started in 1997, 27 students have gone to university, 29 to TAFE/apprenticeship/traineeships, and 11 direct to employment. From the Tom Price program that started in 2002, 5 have gone to university, 12 to TAFE/apprenticeship/traineeships, and 6 direct to employment. The Port Hedland program began in 2003 and has 18 students that have gone to university, 18 to TAFE/apprenticeship/traineeships, and 3 direct to employment (Graham (Polly) Farmer Foundation 2010).

The impact of resource development in the Pilbara has been to change life, and landscape, irrevocably for its traditional owners. Modernity is an uncompromising task master. But the recognition of native title, too, has brought about fundamental change; and the two trajectories are intertwined, for better and for worse. Native title does not yet make Aboriginal people full partners in the frenzy of development and planning; but it does give them a formal stake, and status, in the process, reflected in the growth of Pilbara Aboriginal organisations.

5. Aboriginal organisations and governance structures

The importance of Aboriginal organisations was discussed in the introductory paper, making clear that the Pilbara is no exception. The circumstances that are particular to the Pilbara are the high pressured demands on organisations and groups resulting from the rapid developments taking place both in industry and in government. Paper 2 will sketch the differential impact of these pressures on two of the native title holding corporations based in Roebourne: Ngarluma and Yindjibarndi. Ngarluma people are constantly asked to respond to matters arising from the massive infrastructure developments on their country: a major expansion of Rio Tinto's Cape Lambert port; a new port at Anketell Point directly west of Cape Lambert to service Aquila Resources, Fortescue Metals (FMG), and China

Metallurgical Group (MCC); a Chinese proposal to build a huge magnetite mine of over 140 square kilometres and 300 metres deep near the new port; new rail and gas pipelines; the list goes on and on. And on. Yet the group's governance structures have proved to be sufficiently robust to date to deal with these demands. The pressure on Yindjibarndi people comes from inland, particularly in relation to FMG's Solomon hub. This has led to a split in the group that has also divided the Roebourne community, underlining the extent to which the rate of development and change creates specific difficulties for different organisations, with each of them responding from within their own specific contexts.

5.1 Organisations and trusts

The Pilbara Development Commission's 2007 Directory of Pilbara Indigenous communities and organisations lists nine regional organisations and 32 local organisations across the four shires. Some of these, like the Wangka Maya Pilbara Aboriginal Language Centre, are focused on specifically Aboriginal matters. Many are single-purpose, such as the Irrungadji Group Association. This was established to own and run Mt Divide cattle station, some 150 kilometres from Nullagine, after the station was bought by ATSIC and transferred to the Irrungadji Group Association in 1999 (Department of Agriculture and Food 2009). An organisation like Gumala, and now the Roebourne Aboriginal Congress, include several different traditional owner or native title groups, as do some of the foundations that receive and administer financial benefits received through resource company agreements, like the Ngarluma Yindjibarndi Foundation or the IBN Foundation.

Other organisations provide an interface between native title groups and the broader community. One of the most active of these is the Yamatji Marlpa Aboriginal Corporation (YMAC) and its Pilbara regional component, the Pilbara Native Title Service (PNTS). Yamatji Marlpa is a land council as well as a Native Title Representative Body. The organisation's charter gives it a role in economic and business development. Its main function, however, is as a Native Title Representative Body. In this capacity, PNTS represents fourteen of the twenty-one Pilbara native title groups (or twenty-three of the twenty-eight claims, since some of the groups have more than one outstanding claim).

Like most Native Title Representative Bodies, YMAC has had a somewhat chequered history but has developed valuable experience to allow it to play an increasingly effective role. It performs a critical function in providing both representation and also an important level of coordination for native title groups. Crucially, in terms of developing effective governance capacity, it has developed a system of native title Working Groups through which ongoing business is carried out. The Working Groups are nominated by claim groups and have limited authority to do business, engage in negotiations, and make limited decisions on behalf of their community, although important decisions are always taken back to the community to be

authorised and ratified. Issues of representation remain vexed, but most groups have come to accept the role of the Working Groups in the process of native title. The Working Groups have become the vehicle for the main negotiations with industry. PNTS also works with the groups in heritage protection and organising heritage clearances; with the level of intense resource and other development activity, this is a constant and demanding role.

In addition to these organisations, there is now a largely uncoordinated multiplication of trusts, foundations, and other structures for the management of financial benefits. Many of the native title groups have a number of different trusts and/or foundations. Few are equipped to manage sums of money in the millions of dollars. Some trusts, such as Gumala, involve more than one group. Some resource companies, mainly the major ones, retain some oversight of these management processes. Others are satisfied with handing over the money and getting on with business. With this burgeoning of trusts and other structures to manage financial benefits, governance is an urgent issue, demanding capacity building across a range of areas.

5.2 Issues of representation and governance

The Productivity Commission's Steering Committee for the Review of Government Service Provision defines governance in its report, *Overcoming Indigenous Disadvantage. Key Indicators* (2009: 11.1):

Governance generally refers to the way the members of a group or community organise themselves to make decisions that affect them as a group. Governance therefore includes the structures and institutions that guide individual and group behaviour, and describes who has the authority to make decisions in a community, how those decisions are to be carried out and how different members of the community are included in the making, implementation and communication of those decisions.

Drawing widely on the material produced by the five-year (2004-08) Indigenous Community Governance Project,⁵⁶ the Steering Committee's Report identifies key determinants (2009: 11.3) and some common characteristics of successful Indigenous governing institutions (2009: 11.7). They include the characteristics of 'cultural match', a concept used but then basically abandoned by the Indigenous Community Governance Project.

The Indigenous Community Governance Project initially examined the notion of 'cultural match' that is used in the Harvard Project on American Indian Economic

⁵⁶ This was a joint project between Reconciliation Australia and the Centre for Aboriginal Economic Policy Research (CAEPR) at the Australian National University.

Development. The Australian research, however, revealed that ‘the conditions for “cultural match” are extremely complex in Australia’ and do not really fit the North American experience. Instead, the Project identified cultural legitimacy as one of the six major governance issues that came to the fore on the basis of their research (Hunt and Smith 2006: 13ff; 2007):

Legitimate Indigenous governance arrangements win the support of members and external stakeholders, and produce outcomes. Achieving legitimacy appears to be especially reliant on having genuine decision-making authority and powers, and on the quality of leadership.

Hunt and Smith go on to discuss the two connected elements that are required for governance arrangements to be accepted by Indigenous people as legitimate (2007: xiv-xv):

- (a) having representative structures and decision-making processes that reflect contemporary Indigenous views of what are the ‘proper’ relationships, forms of authority and cultural geographies; and
- (b) ensuring those are combined with a practical management and service capacity to deliver outcomes.

The research suggests that the concepts of ‘culturally appropriate’ and ‘cultural match’ would usefully be replaced by that of cultural legitimacy.

The Working Groups developed by PNTS go some way to meet these criteria and provide some useful pointers for establishing and operating effective and sustainable organisations that do not fracture on impact with the vicissitudes of internal or inter-group politics. Gumala has, on a number of occasions, been in danger of this fate but its governance and operational arrangements have allowed it to survive to date.⁵⁷

The second Report from the Indigenous Implementation Board (March 2010) gave considerable attention to the question of regional governance. Central to its discussion and recommendations were two key observations: firstly, that involvement of Aboriginal people from the beginning in decision-making and implementation planning is essential to sustainable regional development; and secondly, that government itself needs reorganising ‘so that its silos are broken down and it can provide a more holistic approach to collaborating with Aboriginal people’ (2010: 10). A corollary comment related to the Council of Australian Governments (COAG) reforms in Indigenous affairs (2010: 19):

⁵⁷ This will be the subject of a more detailed case study in paper 3.

The Board was critical of the COAG process as it was initiated without consultation with Aboriginal communities affected by the reforms and had not engaged effectively with local governments...Major reforms such as the COAG agenda cannot be orchestrated from Canberra or Perth and be effective.

It is also of note that, amongst the examples given in the Report of initiatives 'that show the emergence of processes that recognise the advantages of involving Aboriginal people from the beginning of the process to establish outcomes', none is from the Pilbara.⁵⁸ This is not to suggest that Aboriginal people are absent from the various regional planning documents produced for the Pilbara. On the other hand, they tend to figure as a separate and subordinate rather than integral consideration in the broader regional vision for the future: as contributors to rather than participants in the region, with much of that contribution designated as playing a role in the protection of cultural heritage (cf Department of Planning 2011: x, 113-14). This is a fundamental disconnect from the way that Aboriginal people see themselves and their place in the region, and the equality that they seek in partnership with both industry and government.

5.3 Engagement with government

The Indigenous Implementation Board's 2010 and 2011 Reports provide a serious discussion of the need for regional governance, the result of regional conversations across the State (2010: 25):

It has been the Board's experience that with each new conversation the need for unity has been increasingly affirmed by participants and that plans to develop workable regional processes are becoming the main determination of conversation outcomes.

This conclusion reflects the need articulated in the Indigenous Pilbara dialogue for a governance hub for the Pilbara based on representation of cultural groupings as the way to engage with government. The potential effectiveness of such a hub has been recognised at a much more local level by the Aboriginal Affairs Coordinating Committee's Chief Operating Officer, but together with changes that need to be made within government. In his 2009-2010 Annual Report, he recognises in principle that joint decisions and responsibility 'is where the greatest change occurs in the way government delivers services to the Aboriginal community' (2010: 19-20). One result of this approach was the formation of the Roebourne Aboriginal Congress as an attempt to bring together the various Roebourne groups into a single point of contact. This seemed to offer the potential to add to the building up of a more collective Aboriginal voice for at least this area and possibly a model for other

⁵⁸ Although one, the Wiluna Regional Partnership Agreement involves Martu people living in that shire.

areas. However, while it may still be too early to make a serious evaluation, recent indications are that it has not received the necessary support from the community. Some of the reasons for this will be examined in paper 2.

And there remains little evidence that government, whether Commonwealth or State, is delivering a more coordinated and sustained approach to engagement with Aboriginal people or to service delivery. If anything, the bewildering array of programs has increased, while longer-term programs like CDEP – pooled unemployment benefits supplemented with amounts for capital and administration (Levitus 2009: 80) – have been extensively revised or withdrawn altogether. This has been despite the fact that individuals and organisations had come to rely on CDEP for essential funding and income. Nevertheless, organisations have shown remarkable resilience in dealing with these changes (paper 2 and 5).

If some important things have changed for Pilbara Aboriginal people, others haven't, including the apparent capriciousness of government policy and funding, especially when this is determined from distant centres. What has become increasingly important, however, is their capacity to engage with local issues, concerns, and needs.

6. What has changed, what hasn't changed, what may/could change and its potential impact on a reform of governance in the Pilbara

6.1 What has changed

In the first iron ore mining boom of the 1960s, Aboriginal people were simply swept aside, with well-documented devastating consequences. This is no longer possible. Relationships, including power relationships, have shifted; not completely, but significantly. Governments – Commonwealth, State, and local – are required to take account of the rights of Aboriginal people. Importantly, and despite the strident politics that marred the passing of the *Native Title Act*, the emphasis in the *NTA* on mediation and the subsequent establishment of a statutory process for Indigenous Land Use Agreements based on Indigenous rights has developed into a culture of agreement-making that goes beyond statutory requirements. The attitude and approach of resource companies too has changed; negotiating agreements with traditional owners is now taken as a normal, if sometimes frustrating, part of business and as a prerequisite for maintaining their social licence to operate.

Resource development in the region now offers access to economic and other benefits for Aboriginal people. This includes serious training and jobs, as well as business and contracting opportunities, the latter often in the kind of partnership desired by Aboriginal people. There is a greater engagement of Aboriginal people and a growth of more representative organisations. There are prospective benefits of

the current Pilbara planning, including Pilbara cities, with access to better services and opportunities.

But there is, of course, a down side. Much more country is being damaged or destroyed. The growth of towns like Onslow is likely to marginalise the Aboriginal people who live there or use it as a meeting place. Many Aboriginal people, especially young people, are being left outside, and alcohol and drug use remain a serious issue.

Stress is increasingly a health issue. Given the number of companies and scale of projects, an unacknowledged dimension of the desire of companies to engage with traditional owners is the requirement for native title groups to spend inordinate amounts of time and energy in meetings and negotiations. The Nyiyaparli group, for example, were involved in forty-two formal meetings in the 2008-2009 financial year, nearly one a week, some of which went for several days, and became back to back meetings with more than one company.⁵⁹ Many Nyiyaparli claimants have to travel long distances to attend meetings. Individuals as well as groups also suffer the consequences for their cultural values and practices of agreement to resource development. In addition, the pressure to reach agreements is a cause of divisiveness within and between groups, as the Yindjibarndi dispute over the proposed FMG agreement makes clear. Research has demonstrated the damaging impact of stress on Aboriginal health. The good intentions of resource company personnel are not a panacea for good health.

6.2 What hasn't changed

For Aboriginal people, the Pilbara is their traditional country, and that remains central to their sense of who they are. There is a strong commitment that any accommodation to modernity has to keep that as its central tenet. Given the pressure for and rapidity of change, this of itself is a cause of stress, often with serious consequences. It was not lost on people that three of the key representatives for the negotiations over the Burrup Peninsula all passed away shortly after the agreement was concluded.

The forces for economic development have limited patience with concerns that delay projects. Despite the protected status of the Woodstock/Abydos reserve, for example, the Minister approved an excision in 2006 to allow the building of a railway by FMG.

Much housing remains sub-standard, if not downright appalling. Service delivery is patchy at best, a situation acknowledged by the 2008 Local Government Advisory Board Report. The Report also noted that 'the majority of Indigenous community

⁵⁹ Yamatji Marlpa 2009 Annual Report.

residents...are sceptical about whether services will improve under the proposed arrangements. There is a view that this is another change being imposed by Government without community consultation or involvement’.

6.3 What may or could change

That is indeed the question. It is clear that there is an appetite for change, from both Aboriginal and non-Aboriginal people. It is the terms of the change, and the resulting relationships that evolve, that remain to be determined. The planning rhetoric ticks many of the right boxes but is coy about implementation; and, as we have seen, falls far short of envisioning the kind of partnership with Aboriginal people that is at the forefront for Aboriginal people themselves.

In contrast, the practical range of on-the-ground projects approved under the various Royalties for Regions funding streams include many projects developed locally and in partnership. Pilbara Cities is providing funding, for example, to the educational and cultural amphitheatre in Karijini National Park in partnership with Gumala Aboriginal Corporation; to the Martu Knowledge program with Kanyarinpa Jukurrpa in Newman; to the Ngarluma Aboriginal Sustainable Housing (NASH) project in Roebourne. Taking even these few examples suggests a much greater involvement of Aboriginal people and organisations in planning and decision-making at the local level. It also suggests a greater continuity in some of the key local bodies, even in the face of name and format changes, like the Pilbara Area Consultative Committee to Pilbara RDA. The relationships built over time, personally and organisationally, matter; and this can only happen at the local level. Pilbara economic interests may be national, but they will only result in long-term sustainable social development by taking account of the local. And Aboriginal people are integral to that social, as well as economic, development.

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12. A new story - Roebourne: a case study

Dr Mary Edmunds

When I saw 'Nothing Rhymes with Ngapartji',⁶⁰ I thought to myself this would be a great opportunity to the people of Roebourne to tell their stories – of how we stayed strong together and survived through thick and thin. There's a lot to be told about Roebourne.

Josie Samson, senior Ngarluma woman and Roebourne community member.⁶¹

1. Introduction

In many ways, Roebourne has been the touchstone of the devastation caused to Pilbara Aboriginal communities by resource development and long-term government deficits⁶² in the region. Conversely, it can also be seen as the touchstone of new possibilities for Aboriginal people. These include the relationships between Aboriginal people on the one hand and resource companies and government on the other; and a reimagining, as part of a broader regional community, of the relationships between the oldest Pilbara residents and those who arrived in the wake of, and since, the initial mining boom in the 1960s.

Since the 1960s mining boom, and now more than ever, the Pilbara story has been dominated by the variable fortunes of resource development in the region, and of the Pilbara as an economy, rather than as a society. The stories of the people of Roebourne long predate that narrative and provide a challenging counterpoint that remembers that the region is not just one big deposit of mineral wealth to be dug or drilled up but a place where people, both Aboriginal and non-Aboriginal, live and have history; a place that is imbued with multiple layers of social and emotional meaning.

Ironically, and driven by the formal recognition of native title, it has been the older established resource companies who have accepted the imperative to shift the focus of the Pilbara story and to acknowledge the place of Pilbara Aboriginal people, not

⁶⁰ A Big *hART* documentary film about the return of Pitjantjatjara actor Trevor Jamieson to his traditional country for a performance of *Ngapartji Ngapartji* in 2009 at Ernabella in South Australia.

⁶¹ Quoted on Big *hART* web site, Pilbara Project, www.bighart.org/public

⁶² Entropic feature 2: government organisational deficits and misalignments (remoteFOCUS report; Introduction paper.)

just as another interest group to be dealt with but as integral to the long-term development and social identity of the region. Government, and other people who have chosen to make the Pilbara their home, are finally scrambling to catch up. In the consequent maelstrom of digging, drilling, and planning, Roebourne people continue to tell the stories that link them to their country and Law, but that also, in the telling, redefine their relationships both with outsiders, as part of modern society, and with each other. At the same time, they continue to experience the impacts of living in a town that remains peripheral and subordinated to the bewildering pace of development and to the priorities set by decision-makers remote from the mundane but urgent concerns of everyday life.

2. Roebourne as a site of contradiction

At the beginning of March 2011, the Western Australian Coroner, Alistair Hope, handed down his findings into the 2009 death of a two-year-old Roebourne toddler. The child had crawled through a hole in the wall of a house in the Village and been electrocuted. The Coroner's report described the condition of the Department of Housing dwelling, where 'numerous holes had been kicked or punched in various walls, and cockroaches infested the premises. Almost all the electrical accessories were either damaged, brimming with cockroach nests or not working' (Tony Barrass, *Weekend Australian*, 19-20 March 2011). This was despite the requirement for the Department of Housing to carry out annual inspections of its tenanted houses and their 2006 contract with a Karratha-based electrical firm to install safety switches in 95 Roebourne houses. The Coroner found that the death was accidental but noted the failure of both the electrical company and of the Department of Housing to ensure that the safety switch had been installed. It hadn't, despite completion signoff from the company (ibid.):

The Department of Housing was supposed to be overseeing the project, as it was spending \$7.6 million for the retrofit program allocated in its 2005-2006 budget. But that's where the governmental care stopped. There was no proper reporting of how the installation program was going to evolve, no formal management framework put in place, no system of review, or any structure to oversee or strategically implement the installation of the [residual current] devices throughout WA.

The Coroner's report not only identifies one of the symptomatic failures of a government agency to carry out adequately its responsibilities in Roebourne. Its description of the grim state of the house in which the little boy died is just one further instance in a series of depressingly similar reports cataloguing the social and environmental ills that plague the town and the nearby settlement at Cheeditha: sub-standard and over-crowded housing, alcohol and drug abuse, family and other violence, child abuse, poor school attendance and low educational outcomes, poor health, unemployment, welfare dependence, gambling, very high rates of

incarceration (Johnston 1991; Uniting Church Frontier Services 1996; Trees 2004; Shanks 2009).

The problems have not always been internal to the town. The Uniting Church Frontier Services report (1996: 46ff) noted a lack of coordination at government level as a key problem in the delivery of services, and cited four main factors: lack of a coordinating culture; differing departmental cycles; high turnover of government department staff; and lack of planning and coordinating mandate and resources. Edmunds had earlier made similar observations (1989: 79) about ‘the sheer number of agencies and services already involved [with Roebourne] with so little apparent result’. There were ‘approximately 45 groups or organisations within the Karratha region who are involved in some form in the dispensation of services to local Aboriginal communities’; and this, in a town of then population of around 1700 people, of whom around 800, or just under half, were Aboriginal.

Before examining the extent to which these latter factors may, or may not, have changed in recent years, it is important to give a brief overview of the context in which Roebourne developed from a prosperous administrative centre and service provider for the surrounding region for over a century into the marginalised and largely Aboriginal town that it is today. The change is intimately connected to the development of the iron ore mining industry.

2.1 Historical background and context

The town is built in Ngarluma country. The historical events in terms of non-Aboriginal presence in the area can be outlined quite simply. The first pastoralists arrived in the region in 1864 and the town was founded in 1866. The site was chosen for its secure fresh water supply – the Harding River or *Ngurin* – and because it was reasonably close to the harbour at Cossack. Till the end of the nineteenth century, it was the major centre of the northwest, closely tied to the expansion of the pastoral and pearling industries, becoming a service centre for the surrounding pastoralists, the administrative centre of the region and, in later years, a thoroughfare and drop-off point for the trucks carrying asbestos from the Wittenoom area to the port at Point Samson.

At the beginning of the twentieth century, Roebourne was firmly established as a non-Aboriginal town, with solidly built church, bank, courthouse, post office, hospital, three hotels. Cossack too, linked by tramline to Roebourne in 1888, was a non-Aboriginal town, as was the new settlement of Point Samson where a jetty was built in 1903-04 to supplement the port facilities at Cossack where the harbour was beginning to silt up (Gibson 1971: 55; de la Rue 1979: 60, 130). An early presence of Malays, Filipinos, Chinese, Timorese, and later Japanese, brought to Roebourne and Cossack by the pearling industry, had all but disappeared by the early 1900s. Apart from a few families who had been granted a certificate of exemption, the only

Aboriginal presence in Roebourne itself was in domestic service; on the annual race day; or in the court or gaol.

In the 1930s, an area outside Roebourne was designated for Aboriginal people to live. Over the years, people camped in a number of different sites which, collectively, came to be known as the Old Reserve. It was separated from the main town by the Harding River. The separation was social as well as spatial; a curfew, in force well into the 1960s, formally excluded Aboriginal people from the town between 6.00pm to 6.00am. Regulations, announced in a notice at the entrance to the Reserve, required anyone living outside the Reserve to get a permit from the Department of Native Welfare before they could go there.

Initially used mainly by Ngarluma people, the population of the Reserve was swelled by Yindjibarndi and others from the 1940s till it became for a time the largest Native Reserve in Western Australia with around 300 people (Johnston 1991: 285). There was no school on the Reserve until 1954 and children from the Reserve were not allowed to attend the school in the town until 1961. Four years later a hostel, Weeriana, was built to offer accommodation to those Aboriginal children whose families lived away from the town.

1961 was also the year that the Federal government lifted its ban on the export of iron ore. By the end of the decade, there were three new towns – Dampier, Wickham, and Karratha – close to Roebourne, as well as six more mining towns in other parts of the Pilbara and a new satellite town, South Hedland, near Port Hedland. The developing mines also required the building of new ports and of a network of roads and railways that slashed through the land. The massive and rapid scale of construction and of the soaring numbers of construction workers overwhelmed the settled routines of the people in and around Roebourne: townspeople, Aboriginal people, pastoralists. Ongoing mayhem developed around the Victoria Hotel, the only pub within a hundred-mile radius. Roger Solomon summarised the impact in his narration for the documentary, *Exile and the Kingdom*: ‘Our community just fell apart. Everything fell apart’.

For Aboriginal people, the rupture was compounded by a number of further events: the move off the stations in the late 1960s, access to drinking rights around the same time; and the closing of the Reserve and relocation of people into the town in 1975, where Homeswest provided housing in the Village, bringing into much less traditionally structured proximity the four main language groups: Ngarluma, Yindjibarndi, Bunjima, and Kurruma.

Four years previously, in 1971, the administrative centre for the shire had moved to Karratha. Over the next few years, so too did services and many of the non-Aboriginal people. Roebourne was relegated to the status of backwater, with a largely Aboriginal population and a major alcohol problem. There were ongoing

related deaths. Trees pointed out in 2004 (2004: 216) that, 'as a result, there are a markedly small number of people in the 45 to 60 year old age group'.

Even over this infamous period, however, there was another story. Yindjibarndi people continued to carry out Law ceremonies at Millstream. For others, there was a break of probably only two years, from 1969 to 1971. Ceremonies were performed, sometimes on the Old Reserve, often at bush meetings over the hot season, later at Woodbrook station after it had been purchased for local groups, though never in the Village. Law ceremonies included initiation for boys. In 1969, a group of senior men, both Ngarluma and Yindjibarndi, worked with Pastor Dave Stevens to establish the Pilbara Aboriginal Church. It was a mainly Christian group who rejected the move to the Village and the easy availability of alcohol. They moved instead to the old shearers' quarters, the Woolshed, on Mt Welcome station, about three kilometres out of Roebourne. The first to use the old Woolshed buildings were Jacob Scroggins, a Ngarluma man, and his family. Renamed Cheeditha, it was begun as a dry community – no alcohol permitted – and continued under the leadership of Yilbie Warrie, Kenny Jerrold, and Allan Jacobs. All three were leaders in the Church. They were also senior Yindjibarndi Law men. And they, with others like Ngarluma senior man Coppin Dale, were active in the establishment in 1973 of the Mt Welcome Pastoral Company when the Mt Welcome and Cherratha stations were purchased – Woodbrook was added later – and, in 1974, of Ieramugadu. Also active in this process was Kurrama woman Carol Lockyer. Ieramugadu Group Inc. was the first legally incorporated Aboriginal organisation in Roebourne and the sole shareholder in the Mt Welcome Pastoral Company. Ieramugadu was also the partner in Hamersley Iron's (now Rio Tinto) first attempts to set up a program to provide employment for Roebourne Aboriginal people.

All this was a long time ago and is not part of the experience of the next generations. But it remains integral to the Roebourne story and 'of how we stayed strong together and survived through thick and thin'.

3. Negotiated engagement and self-determination

The formation of the Ieramugadu Group as an organisation signalled the beginnings of a recovery by Roebourne Aboriginal people from the depredations wrought on the community by the first mining boom and of a taking back by them of some control, on their own terms, over the new social and economic conditions. That control could never be total. 'Historically, colonialism forged relations of articulation that now make Aboriginal society everywhere a part-society' (Levitus 2000: 75):

Responsibility for the social reproduction of Aboriginal society is therefore nowhere located entirely within an Aboriginal universe. It always draws to some extent on external sources of supply that are under non-Aboriginal control.

People in Roebourne are long past the 'first contact' stages of colonialism, although it is arguable that the beginning of iron ore mining in the 1960s marked the most serious disruption to their processes of social reproduction as embedded in kinship relations (Kirsch 2001: 9) and introduced modernity in its most destructive forms. In his book, *Radical Hope* (2008), Jonathan Lear looks at a similar historical moment for a different tribal group, the Crow Nation of the western United States, and takes the story of Plenty Coups, the early twentieth century great chief, who confronted the impact of change for his people from the hunting culture of the Great Plains to life on reservations. In a review of the book, J.M. Coetzee wrote (www.hup.harvard.edu/):

How does a nation come to life-and-death decisions at a time of crisis when it can no longer live according to its founding values?...[In this book, Lear] shows us that besides the glamorous alternatives of freedom or death there is a third way, less grand yet demanding just as much courage: the way of creative adaptation.

This courage – to reimagine culture confined to the mundane rather than the heroic – he calls radical hope, describing it as 'imaginative excellence' by which Plenty Coups tried to imagine what ethical values would be needed to overcome despair and lead a meaningful life in a new world. Aboriginal people in Roebourne, as elsewhere, have had to face comparable challenges and, as in the case of the Crow, there have been different, all too often dysfunctional, ways of responding. But the group of local leaders who founded the Ieramugadu Group less than a decade after mining was initiated were beginning to restructure their own space within a changing cultural order (Sahlins 2005: 48). It is relevant to the present discussion that the form this restructuring took was to set up an organisation.

The Ieramugadu Group as an Aboriginal organisation, together with the gradual establishment over the following years of a number of other Aboriginal organisations in the town, created a new mode of negotiated engagement – what Levitus (2000: 75) refers to as a transactional boundary and others as an intercultural space – between Roebourne Aboriginal people and the new social universe in which they found themselves. Roebourne Aboriginal people were beginning to forge new ways of asserting their own terms.

In other parts of Australia over the same period, those 'own terms' were being promoted, both by Indigenous people and by government, as self-determination. This concept and policy has been subjected to recent trenchant criticism as setting Aboriginal people up to fail (cf Abbott 2009: 168). Perhaps the most savage attack comes from development economist Helen Hughes (2007), who widens her critique to condemn the range of government Indigenous policies that she terms 'exceptionalism', and that she sees as a version of self-destructive apartheid, with 'communist economies' having been established on Aboriginal lands (Hughes *et al.*

2010). Former politician Gary Johns (2011) is equally, though perhaps less exaggeratedly, dismissive: 'Self-determination interrupted integration by preventing Aborigines from adapting to opportunities. The consequences have been tragic.'

There is no doubt that these judgements are an angry response to the bleak living conditions in many Aboriginal communities, including Roebourne; nor that they have found evidence to support their criticism in the family factionalism, nepotism, self-interest, and governance incompetence in many Aboriginal organisations. What they fail to take into account is the extent to which the policy of self-determination has been what Smith refers to as a Claytons' self-determination (Smith 2002: 6, 5):

The principle of self-determination holds that culturally distinct groups should have a degree of control over those economic, political, and social institutions that impact on their way of life. Ironically, some commentators complain it is actually Australia's self-determination policy that is the current problem in Indigenous affairs; that it is holding Indigenous people back from socioeconomic engagement with the mainstream economy. But it is premature to declare self-determination as being past its 'use-by' date when, at no stage over the last three decades, has any Indigenous community or region been handed genuine self-determination. Rather, the implementation of self-determination by Australian governments over the last two decades has consisted more of a 'dump and run' exercise. Certain assets, resources and responsibilities have been handed over to community organisations. But at the same time, many government departments and non-government agencies have 'vacated the field', withdrawing staff and practical support.

Government agencies were not absent from Roebourne in the wake of the first mining boom, though their effectiveness was questionable as we have seen. In some cases, as in the establishment of Mawarnkarra Aboriginal Health Service in 1985, government involvement was necessary but also acted to limit rather than enhance Aboriginal control. The initiative to establish Mawarnkarra came from Roebourne Aboriginal people as part of a concerted effort to deal with the alcohol problem in the town. What they wanted was not a medical service, since the town already had a hospital and Community Health Centre, but an alcohol counselling service that would work in conjunction with Ngurawaana, the small community set up on Yindjibarndi land away from town that also acted as an alcohol rehabilitation camp. Instead, they got a medical service, to which an alcohol program was to be attached. The then Commonwealth Department of Aboriginal Affairs was instructed to assist in setting up the service (cf Edmunds 1989: 82ff). Bolger observed in relation to similar outcomes in the East Kimberley (1987: 53):

Although communities may seem to be offered a choice, this is limited by the function of the particular agency...What happens in each community is

dictated more by the fashion of the time in any particular government department than by any genuine choice being made by Aboriginal people.

Nevertheless, these organisations provided more instances in which ‘Aboriginal and “mainstream” aspects of governance are now deeply interwoven in a single – albeit complex – field’ (B.Smith 2008: 154). Government has played a key role in that complex field; but so, too, and often more immediately, have the resource companies. Within the muddle and frustrations that operate at the ‘point of articulation’ (Levitus 2009: 75), compounded by the internal rivalries and disputes within and between the Roebourne Aboriginal organisations, it is possible to discern the conditions of the possibilities of real partnership.

One of these conditions is the stubborn insistence of Roebourne people on maintaining their Aboriginal identity, an understanding that maintains the vision of self-determination and of a viable future for the next generations. Another is an inchoate *realpolitik* of how self-determination can and cannot be shaped within the hard demands of an overwhelming Pilbara development trajectory. Inevitably, both government and resource companies are essential players in determining what the extent, and the limits, of self-determination might be.

3.1 Employment

Raising levels of Aboriginal employment has been one point of common concern in this interaction. Its history has been subject to a great deal of goodwill and limited effectiveness. A few examples will indicate some of the reasons. The Ieramugadu Group was the first Roebourne Aboriginal organisation to enter into employment contracts with both government and industry. The most long-lasting of these were gardening contracts with Hamersley Iron and Robe River (both now part of Rio Tinto). These minimalist early contracts evolved over time into the establishment by Hamersley Iron of an Aboriginal Training and Liaison (ATAL) unit in Dampier in 1992 and, in a collaboration between ATAL and Ngarliyarndu Bindirri (Corporate CDEP) Aboriginal Corporation, the setting up of Brida Contracting in 2000. Brida is wholly owned by Ngarliyarndi Bindirri.

By 2005, Brida was employing 27 people on earthworks and camp landscaping, 23 of whom were Indigenous (Taylor and Scambary 2005: 45, 48). Initial contracts were the successors of the first Hamersley Iron contracts with the Ieramugadu Group and related to gardening and landscaping. This remains a core activity of the organisation, but Brida – after a few hiccups described below – has now expanded the scope of its work, although its primary client remains Rio Tinto Iron Ore. In 2006, the Cape Lambert Production Partnership was initiated between the Cape Lambert operations team and Brida. It provided tiered training over a twelve month period, with the opportunity for employment at the end. In 2007, eleven Brida contractors were involved in production operations (Rio Tinto Iron Ore 2007 *Milli Milli* edition 27, July). In 2009, Brida was contracted to undertake earthworks on

the Rio Tinto power station. In the same year, it undertook the installation of a new security perimeter fence at the Roebourne Regional Prison for the Department of Corrective Services. In 2011, it held the contract for all gardening for the town sites at Dampier and the Cape Lambert camp, with fourteen gardeners employed and other work in Roebourne, Cheeditha, and Mingulltharndo (the 5 mile).

Ngarliyarndu Bindirri itself was incorporated in 2000 as the local organisation receiving the Community Development and Employment (CDEP) funds. The corporation is a community organisation, with directors and membership drawn from the broader Roebourne groups, rather than exclusively from Ngarluma and Yindjibarndi people.

In 2010, however, the Roebourne CDEP ceased as part of wider government nationwide changes to the program.⁶³ The Ngarliyarndu Bindirri Directors' Report for the year ended 30 June 2010 noted that 'after the end of the financial year, the entity will not be in receipt of CDEP funding which has been there (*sic.*) major source of the entity's funding for several years'. The same Directors' Report also stated (www.oric.gov.au):

A subsidiary of Ngarliyarndu Bindirri being Brida Pty Ltd went into Voluntary Administration of 1st October 2010. The activities for Brida Pty Ltd transferred the NBAC of (*sic.*) continue to operate the contracts.

Whether Brida's fate was the result of the withdrawal of CDEP funding or of other causes is perhaps open to question; but Brida was on the way to being fully operational again in 2011, though with its own Board of Directors separate from Ngarliyarndu Bindirri still to be re-established. What has been the result of the changes to CDEP is that there is now no direct government employment funding channel in Roebourne itself. What the Federal Government announced through the National Partnership Agreement on Indigenous Economic Participation as a 'new integrated approach to employment services for Indigenous Australians' has meant the removal of yet another government service from Roebourne to Karratha; Job Services Australia operates through the Karratha office of ITEC Employment. It is too early yet to assess whether the outcomes from the change will match the rhetoric of the Closing the Gap targets agreed in the National Indigenous Reform Agreement, but the removal of CDEP and even of its replacement from Roebourne has left a different kind of gap, one that has been left largely to the resource companies working with the community to fill.

Despite these problems, and the lack of government assistance for the CDEP transition, Ngarliyarndu Bindirri – like Ashburton Aboriginal Corporation that will be discussed in paper 5 – continues to operate and expand. In 2011 it runs the Red

⁶³ Yet another instance of entropic feature 5.

Dirt Driving Academy, an activity meeting high local demand with some 40-60% of Aboriginal people in the Regional Prison there for driving offences. In its first year it has had around seventy local participants. It owns a number of properties in Roebourne itself, including the building that houses the thriving Roebourne Art Group. It also owns the building at the prison's Decca training facility on the Harding Dam road, which it leases to the Department of Corrective Services.

The Decca training facility for minimum security prisoners, in collaboration with TAFE, has established a water and horticultural project. Side by side with this, and working with Ashburton Aboriginal Corporation in Tom Price, Ngarliyarndu Bindirri and the Decca station have also now become one of the biofuel pilot projects being run by Asburton Corporation (paper 5), with the regional implications for a network of local organisations discussed in the Introduction paper. When the prison's education program is taken back to a new building in the prison grounds in 2012, Ngarliyarndu Bindirri will become directly responsible for the biofuel project.

3.2 Native title developments

The recognition of native title has led to the formation of other Roebourne-based organisations. The joint Ngarluma Yindjibarndi native title claim was lodged in 1995, the first native title claim to be lodged in the Pilbara. On the basis of that earlier collective action, some of the first agreements were between the resource companies and the two groups together. One of the projects established in 1998 between the North West Shelf Venture partners – Woodside Energy and others including BHP Billiton Petroleum and Chevron – and the Ngarluma and Yindjibarndi groups was Pathways to Employment. In 2000, the two groups entered into an agreement with the North West Shelf venture partners that provides for compensation for land use of the Burrup Peninsula and areas of the Shire of Roebourne.

3.2.1 *Ngarluma and Yindjibarndi Foundation (NYFL)*

The Ngarluma and Yindjibarndi Foundation was set up to receive the compensation and for long term management of the funds. The money is used for community programs that support the social, cultural, economic, educational, health, and wellbeing of the Ngarluma and Yindjibarndi people. The Foundation now owns the local shop, the Roebourne General Food Store, and the Roebourne Tyre Service. It is in the process of finalising plans for a Roebourne cultural centre. \$190,000 towards the planning for the centre came from Royalties for Regions. The first stage is an amphitheatre near the banks of the Harding River. This is at the final stages of completion and is part of a wave of new developments in Roebourne (see paper 2). However, one of the anomalies of Roebourne as a town is that it has now been

removed from the Commonwealth's definition of 'remote',⁶⁴ one consequence of which is that there will be no subsidy for the cultural centre for the installation, for example, of solar energy.

In other ventures, in 2006 NYFL applied to the Indigenous Stock Exchange (ISX) for investment and support for the Cultural Centre (www.isx.org.au/). It has purchased a dialysis machine for Mawarnkarra Medical Service to help deal with the high incidence of diabetes in the community and supports other local social and health programs. In 2011, Rio Tinto awarded NYFL a \$120 million car dumper and bulk earthworks joint venture contract with NRW Holdings for the Cape Lambert port expansion. Another joint venture with NRW and the Eastern Gurruma for drilling and blasting at Fortescue Metal Group's (FMG's) Solomon hub will be looked at in paper 5.

Other intensely busy organisations resulted from the 2005 Ngarluma Yindjibarndi native title determination. The Ngarluma Aboriginal Corporation (NAC) and Yindjibarndi Aboriginal Corporation (YAC) hold the native and are the registered native title prescribed bodies corporate under the *Native Title Act 1993*. Both are emerging as formidable actors in reasserting local Aboriginal identity and values and in constituting Levitus's 'transactional boundary' between the Roebourne Aboriginal domain and external stakeholders. They have also given rise to disputes and separation between the two groups, an issue that will be addressed in the next section.

Since the establishment of the separate native title prescribed bodies corporate, each organisation has tended to operate and pursue their interests separately. This has been so, even when the issues, such as housing, affect the whole community; and Juluwarlu, set up with the benefit of the Woodside agreement to document and record Ngarluma and Yindjibarndi culture and history, has become in practice an Yindjibarndi organisation. NAC is developing its own resource and media arm.

3.2.2 Ngarluma Aboriginal Corporation (NAC)

Other NAC projects, however, with the collaboration of government and the private sector, have the potential for transforming the social conditions of Roebourne. The most ambitious of these is the Ngarluma Aboriginal Sustainable Housing (NASH) project. Initiated by NAC and in the planning over several years, the project has involved the Ngarluma native title holders surrendering their native title rights over part of their country and the land has been acquired under an option agreement with the State Government for a 400 house lot development, with commercial and group housing areas. One hundred blocks are being developed as the first stage, 99 single residential lots and one group housing site for ten dwellings. The

⁶⁴ www.fahcsia.gov.au. *Social Security Act 1991* s.14.

development is being funded from a combination of the Department of Housing; Royalties for Regions which, like all Pilbara Royalties for Regions, comes through Pilbara Cities; the Department of Regional Development and Lands; the sale of lots; and from NAC itself. NAC is developing the infrastructure for the lots but is not building the houses. At the insistence of the State, this will be done by a Class A contractor from Perth rather than being designed to provide employment opportunities for Roebourne people, though some may become available through the process.

The development will have a mix of social housing, with rental accommodation to be managed by Foundation Housing instead of the Department of Housing. The Department of Housing has bought 50 lots with a view to providing accommodation for government employees. Some lots will be available for shared equity home purchase for Roebourne Aboriginal people (Ngarluma Monthly, December 2009). NAC commissioned Burgess Design Group to produce a development plan, which they completed in December 2009. The plan will be revisited when stage 1 is completed. Stage 2 is to be funded from profits from stage 1.

Under the Planning Commission's draft *Pilbara planning and infrastructure framework* (2011), Roebourne is listed in the proposed settlement hierarchy as a 'town', without a specified target population. It suggests instead that 'the population and footprint of these settlements will be largely determined by mining and oil and gas related industry in the locality' (2011: 11). With the focus for Pilbara Cities on developing Karratha as a city and Rio Tinto planning for an extra 750 houses in Wickham, the place of Roebourne in the shiny Pilbara future remains unclear. Pilbara Cities sees the Roebourne Shire as responsible for further planning and has provided \$250,000 to the Shire for this purpose.⁶⁵

In 2010, the Shire set up a Roebourne Advisory Committee, to be made up of six Roebourne residents and three Council members. Of the first membership, four of the six Roebourne members were Aboriginal.⁶⁶ The Council also plans to reopen the old Shire building in Roebourne in order to have people on the ground there. In the meantime, they continue with normal Shire service delivery.⁶⁷

Other NAC projects are more modest but also significant in redeveloping Roebourne Aboriginal people's interests. One of these is the revival of Mt Welcome station as a working cattle station. The original purchase of the station in 1973 had been by a

⁶⁵ Interview with Pilbara Cities CEO, Chris Evans, 23 May 2011.

⁶⁶ Interview with Chair of the Committee and long-term Roebourne resident, Councillor Gary Bailey, 19 July 2011.

⁶⁷ Interview with Shire President, Nicole Lockwood, 26 May 2011.

group of community leaders and the Ieramugadu Group, in the name of the Mt Welcome Pastoral Company, had later taken over the lease-holding and management. In 2006, the State Government had proposed forfeiture of the Mt Welcome lease for failure to meet the terms of the lease, including non-payment of rent. The Minister discontinued the proposal in 2007 and acknowledged the role of NAC adviser, Peter Dowding, and others in helping to improve performance (WA Government Ministerial Media Statement, 4 July 2007). As part of that process, the NAC replaced the Ieramugadu Group as the owner and daily operator of the pastoral lease. In 2008, they appointed a new manager, previously from the Department of Agriculture in Karratha. In the same year, Rio Tinto Iron Ore, in partnership with Pilbara TAFE, began a Work Start program in the Roebourne Regional Prison and its nearby work site on Mt Welcome (Rio Tinto Iron Ore media release, 24 August 2008). A renewed station-hand training program began in 2009. Mt Welcome has been offered renewal of its lease after the State-wide pastoral leases expiry in 2015, subject to meeting the standard conditions.

There are no mines on Ngarluma country though there is a huge proposed magnetite mine near the new port at Anketell Point, but the Ngarluma bore the brunt of the 1960s mining boom and of the building of towns and of road, rail, and port infrastructure. Their country continues to be affected by the massive expansion being undertaken in the present boom. Their time and energy is consumed by the associated intense negotiations and legalities. In 2008, NAC signed a letter agreement with Rio Tinto Iron Ore that provides for ongoing financial benefits to the group from Rio's operations. They signed a final agreement in December 2010. In the intervening two years, a three-page letter agreement had become an inaccessibly complex document of over 700 pages in two volumes.

As with other native title groups with whom they have negotiated, Rio Tinto also funded advisers for the Corporation to assist them in the management of financial inflows. The model developed in consultation with NAC, but based on principles on which Rio Tinto insists, is set out in diagram 1 (*Thayalgu Ngurna Wanggayi (Capturing our words)*, NAC newsletter Edition 5, November 2008). The Newsletter made clear that money received through the Direct Benefits Trust would be subject to tax.

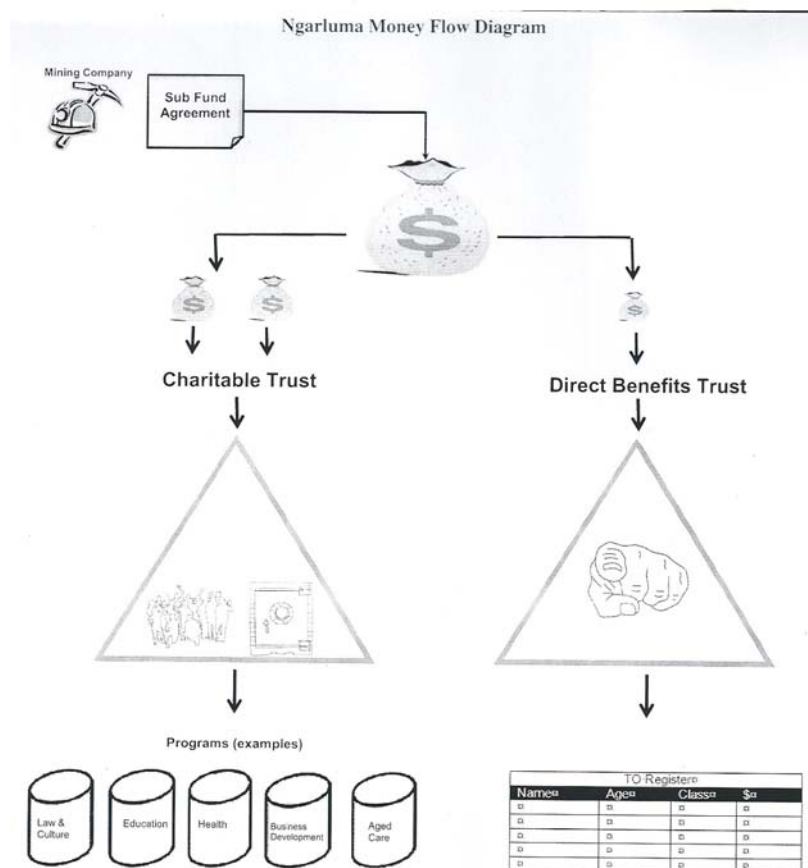


Diagram 1.

3.2.3 Yindjibarndi Aboriginal Corporation (YAC)

Like the Ngarluma, Yindjibarndi have no mines or prospective mines in their native title determination area, and their country suffered much less of the impact of earlier mining. This is different in the area covered by a further claim that has not yet been determined and where a number of companies, including Rio Tinto and Fortescue Metals Group (FMG), have exploration and development interests. FMG in particular urgently wants access to Yindjibarndi country for the expansion of its Solomon iron ore project and related infrastructure, an interest that has become the subject of an acrimonious and very public dispute between FMG and part of the Yindjibarndi community.⁶⁸ Even prior to this conflict, the Yindjibarndi Aboriginal Corporation (YAC) had chosen not to enter into any long-term binding agreements with any of the resource companies, although its members are part of the Ngarluma

⁶⁸ The comment of one senior Roebourne Aboriginal man after seeing the ABC's *Four Corners Program* screened on 18 July 2011 was that he thought it was all 'a bit silly'.

and Yindjibarndi Foundation agreement with Woodside and the North West Shelf partners and, like Ngarluma and other Pilbara native title groups, are constantly responding to requirements for heritage surveys.

Through the period of conflict with FMG, but also in numerous other ways, YAC has made very clear that its priority is on preserving and maintaining traditional culture, and doing so with the use of contemporary media. The jewel in YAC's crown is Juluwarlu, set up in the wake of the Woodside agreement and registered in 2000, the same year as the Woodside agreement, as a not-for-profit Indigenous community organisation to preserve, record, and broadcast culture and language, and document the lives of contemporary Yindjibarndi people. Under the supervision and with the active involvement of their co-founders, Michael Woodley and his wife Lorraine Coppin, their output in DVDs, books, films, and art work has been impressive and their archive contains over 6000 photos that they have digitised (www.oric.gov.au). The collection includes the extensive photo collection from long-term Roebourne residents, Pastor Dave Stevens of the Pilbara Aboriginal Church and his wife Margaret. In 2004, Juluwarlu reissued the seminal Roebourne documentary, *Exile and the Kingdom*, together with updated biographies and an associated booklet, *Know the song*, as well as a range of other books, videos, and DVDs on Yindjibarndi history and culture (www.yindjibarndi.org.au/juluwarlu). In 2005, Juluwarlu was granted a television and radio licence, Ngarda Community Television and Radio Station, to broadcast into Roebourne and its surrounding areas. Its programs include employment and training in multi-media for Roebourne Aboriginal people.

Juluwarlu continues to receive support from Woodside and the Ngarluma and Yindjibarndi Foundation, and has had grants from Royalties for Regions through the Pilbara Development Commission, a range of government agencies, and other funding bodies.

Juluwarlu is not alone in this harnessing of Western technologies and the embracing of contemporary forms of communication in reaffirming identity in the context of modernity. One of the projects supported with the funding available under the Conservation Agreement, signed between Woodside and the Commonwealth Government in 2007 to cover the Dampier Archipelago (www.woodside.com.au), was an innovative interactive media project by a Ngarluma man and emerging film maker, Tyson Mowarin. These are just a sample of the range of ongoing activities in Roebourne being carried out by local Aboriginal people, in partnership with or with the support of industry and government. There are others not confined to native title but involved across the whole community.

3.2.4 Organisations and local working partnerships

Big hART

Also through the Conservation Agreement funding, Woodside has supported the involvement of arts and social change company, Big hART, with Roebourne people (www.pilbara.bighart.org), in order to use the arts and media as a way of telling Roebourne stories. Initial funding was also provided by the Federal government through the Department of Families, Housing, Community Services, and Indigenous Affairs (FaHCSIA) and subsequently by some other partner bodies. Taking an approach based on their experience with developing Ngapartji Ngapartji, this has resulted in the Yijala Yala ('now' in both Yindjibarndi and Ngarluma languages) project. The project started very quietly in 2009 with meetings between Woodside's senior Indigenous adviser, Ben Garwood, and Scott Rankin, director and creative director of Big hART. In due course, Scott and Trevor Jamieson, actor and central performer in Ngapartji Ngapartji, came to Roebourne to meet with people in the community to talk about what might be possible. Some time later, the group with whom they had met invited Big hART back to Roebourne. Part of the commitment was that they would stay for five years. In July 2010, the project's producer and creative director, Deb Myers, arrived.

Over the following year, a team that included Trevor Jamieson and his co-performer from another Big hART play, Namatjira, worked with an advisory group made up of community members, 'to highlight cultural heritage as something alive and continually evolving in the here and now, rather than only of the past' (Big hART 2011: 1). They did this using film, text, translation, recordings, songs, music, iPad apps, NBN focused material, photography, and performance. Over 300 workshops were held in the first year, with over 25 adults and 250 young people, including workshops at the prison and school. A women's choir produced a Christmas DVD for 2010. In 2011, four Roebourne people went as part of the Big hArt contingent to the International Community Arts Festival in Rotterdam. And in July 2011, Yijala Yala, involving performance, film by and with young people, and music was presented at the Woodside Plaza auditorium in Perth. It was just one part of an ongoing process in what the participants refer to as the Cultural Resources Boom.

Big hART is just one part of this Cultural Resources Boom, which also involves training and employment for local people. Juluwarlu is a major contributor and the town now has a number of flourishing arts centres, with artists exhibiting on a regular basis in Perth and taking part in the Cossack art awards. Rio Tinto, Woodside, and BHP Billiton are all major sponsors. Rio Tinto was the founding partner in the company set up by Aboriginal professional dancer and choreographer, Michael Leslie, in 2006 to work with young people in a number of Pilbara towns, including Roebourne.

Graham (Polly) Farmer Foundation and the Gumala Mirnuwarni Education project

One of the most successful stories from across the Roebourne Shire is the Gumala Mirnuwarni Education Project. Begun in Karratha and Roebourne in 1997, the project involves a sustained partnership between the Aboriginal community, the Graham (Polly) Farmer Foundation, the WA Department of Education and Training, the Commonwealth Department of Education, Employment and Workplace Relations, Woodside (North West Shelf Venture partners), Rio Tinto Iron Ore, Rio Tinto (WA) Future Fund, and Dampier Salt. A steering committee oversees the project and provides strategic level management. The steering committee has representatives from all the partners. The program has education enrichment centres in Karratha and Roebourne. Students attend for a minimum of two and maximum of four afternoons per week. Enrichment and extension activities occur during some weekends and holiday periods. All students have an Individual Learning Plan and associated personal tutors (www.woodside.com; www.pff.com).

As mentioned in paper 1, the current 41 students come from two public and one private secondary school. Since its inception in 1997 the Partnership has graduated 66 students, 27 of whom have achieved tertiary entrance, 29 of whom have gained traineeships/apprenticeships or entry to TAFE and 11 to direct employment.

Some of the criteria that have contributed to Gumala Mirnuwarni's success and that make it potentially replicable are shared objectives and strategic and practical collaboration in implementing those objectives; adequate and ongoing reliable funding; consistent and predictable involvement of all the partners, including government; with respect to the specifically educational aims of the project, other criteria include interested schools and interested parents. Because of the range of partners, and their strong support and focus at the local level, the project has been spared the policy turbulence and disruptions arising from changing government policies and programs at both State and Commonwealth levels.⁶⁹ This puts it in contrast to, for example, the policy changes affecting a community organisation like Ngarliyarndu Bindirri.

Other Roebourne organisations and agencies

It is not part of this paper to list all the organisations or agencies operating in Roebourne, but there are some that demand a mention. A number date from the period in the 1970s and early 1980s when Roebourne people were beginning to pick up the pieces in the wake of the first mining explosion. The Pilbara Aboriginal Church became an important centre of support and community-centred activity and remains so. Yaandina Family Centre has evolved from a single nursing service in

⁶⁹ Entropic feature 5.

1975 to overseeing more than ten community service programs. These cover child care, aged care, a sobering-up shelter, the Mingga patrol, and youth services. Weeriana Hostel has provided residential care for children, initially children coming in to school from the wider region, from even earlier. Mawarnkarra Health Service offers medical and primary health care in Roebourne and surrounding areas.

3.3 Where to self-determination?

In writing about the impact of more sweeping changes in government policy, Levitus (2009: 74) comments:

The most recent phase of Federal Aboriginal policy-making has substantially abandoned the self-determination paradigm. Nevertheless the recognition of a form of native title in Australian law and a growing trend towards agreement-making have developed to sustain and expand the niches occupied by local indigenous organisations, and the industry's preparedness to acknowledge their standing.

The Roebourne experience bears out this observation. While far from perfect, the persistence of Aboriginal organisations indicates the importance of their role as conduits for a negotiated engagement between local Aboriginal people and non-Aboriginal processes and structures. It also suggests that the organisations act, or have the potential to act, as agents of transformation, offering familiar spaces within which people relate to each other in ways that are shaped by their traditional social and moral frameworks: their traditional culture. In the same process, and from that base, they also work to produce, modify, and reproduce the new meanings demanded by their incorporation into the modern world (cf Bauman and Tester 2001: 32); acting as translators inside to members and outside to external agents and agencies, becoming meaning makers in the process and accountable at both levels, both internal and external.

Alternatively, organisations can do the opposite and trap their members into rigid and intransigent meanings that reject a practical flexibility and constant negotiability that is part of traditional Aboriginal social relations and that is essential to a productive reframing of the relations between the old and the new.

In an Indigenous Governance Conference in Jabiru in 2003, people who had been involved in the Harvard Project on Native American Economic Development made the point this way (Cornell and Begay 2003):

In some cases, [building cultural legitimacy] may mean Indigenous communities have to rethink their ideas of how to govern and invent new ways that better meet their needs...What matters is not that things be done in the old ways. It is that things be done in ways – old or new – that win the support, participation, and trust of the people, and can get things done. Some will be old. Some will be new.

All this is inevitably a messy business, requiring effective leadership, sound governance arrangements, capacity development, and acknowledgement, facilitation, and support from external sources, including government. The complexities are compounded for Roebourne people by the immense pressures they experience in the face of the mad rapidity of current development. These are pressures that non-Aboriginal Pilbara residents are experiencing as overwhelming. For Aboriginal people, they pose a fundamental dilemma, where the destruction of country fractures the connections between land and people and the social relations that derive their meaning from those connections.

This dilemma is not eased by the inexorable assumption that economic development is for the greater good, even if only through a trickle down effect.⁷⁰ In the case of Yindjibarndi objections to the granting of particular mining leases to FMG, for example, the National Native Title Tribunal found that a lease could be granted, subject to conditions. In his assessment of the criterion of ‘economic or other significance’, the Tribunal member stated (*FMG Pilbara Pty Ltd/Ned Cheedy and Others on behalf of the Yindjibarndi People/Western Australia*, [2009] NNTTA 91 (13 August 2009): [84]):

In their contentions..., the Government and grantee parties contend the grant of the proposed lease will assist the local economy through the development of local resources and by providing services to the grantee party’s project; the State economy through the payment of royalties; and the Nation through the earning of foreign capital and contributing to the national tax base. I accept the grant of the proposed lease will create considerable positive economic effect for the State and the Nation, and that some positive economic effect may be experienced by the local economy including local Aboriginal people.

The history of Roebourne Aboriginal people does little to bear out an automatic flow-on effect for them. If anything, the evidence is to the contrary. The benefits that have begun to accrue to them are the result of active negotiations and hard-won agreements. It is these processes – even where, as with the Burrup and Maitland Agreement negotiations, the human cost has been high – that Aboriginal people have carved out for themselves some spaces for the exercise of self-determination.

At the same time, it is governments who bear the responsibility of ensuring that the national interest is promoted by policies in which the vital connection between economic and social development is sustained (Edmunds 1989: 43). Some recent developments in Roebourne raise the possibility of a tentative rapprochement between Aboriginal people’s ongoing desire for operating on their own terms, even in the intercultural space, and the State’s refocusing on policy implementation

⁷⁰ The trickle down effect has also been interpreted as that the rich piddle on the poor.

through consultation rather than on detached policy reformulation. A corollary of that approach is the opportunity for identifying what decisions might be made in the Pilbara, in this instance specifically in and for Roebourne, and the ways in which accountability for local outcomes could be localised (Desert Knowledge remoteFOCUS, Pilbara Dialogue presentation, 4 April 2011); and do this by seeing Aboriginal people as integral rather than marginal to the Pilbara story.

4. Place-based decision-making and local accountability

The decision by Western Australia's Aboriginal Affairs Coordinating Committee (AACC) to appoint a Chief Operating Officer to provide on-the-ground decision-making in three priority communities, one of which is Roebourne, suggests that the State government is attempting to take on board the lessons from past failures and recent research. The Chief Operating Officer was appointed in July 2009. In his *Annual Report, July 2009 – July 2010*, he states the AACC's intent 'to use Roebourne to develop a model that would change the way government services are planned and delivered to Aboriginal people in regional towns' and sets out the key principles for bringing about 'the greatest change' (2010: 18, 19):

- Sitting down together and taking the time to build relationships and earn trust.
- All parties listening and engaging respectfully and genuinely.
- Joint ownership and joint responsibility for action (not government giving and Aboriginal people receiving in a benevolence mode).

4.1 Roebourne Aboriginal Congress

Crucial to the process in this model was the establishing of a 'reference group' that represented the wider Roebourne Aboriginal community, separate to native title groups and that would be 'a recognised Aboriginal group with authority to speak on community issues'.⁷¹ The principle articulates the desire of government to have a single representative body with whom to deal and anticipates the comment made by Minister Brendan Grylls at the inaugural Pilbara Futures Forum, held in Port Hedland in June 2010, 'Come to me in a united voice and I will help you'.

In October 2009,⁷² a community meeting decided to establish a reference group and selected five men and five women. In the following three months, the Department of Indigenous Affairs (DIA) and the Aboriginal Affairs Coordinating Committee carried

⁷¹ Telephone interview with Chief Operating Officer, Brian Wilkinson, 11 May 2011.

⁷² The Annual Report gives the date as 2010 (p. 12), but the subsequent chronology of events suggests that this is an error.

out intensive capacity building, providing governance training, structure and administrative and resource support for the reference group. The Annual Report goes on (2010: 12-13):

It became clear that to achieve real change in the way government services are planned and delivered the role of the elected group needed to be partnership, ownership and shared responsibility. Thus the group was encouraged to stop being just another reference group and become something more substantial. The *Roebourne Aboriginal Congress* was born...[The terms of reference show] how far this has moved from that of a typical government reference group to that of leadership and self-determination in the overall strategic direction of Roebourne.

The Chief Operating Officer makes clear that one of the key elements for the Congress to be sustainable is the support, and possible involvement, of the town's other Aboriginal organisations, particularly that of the NAC and YAC. By July 2010, there were some encouraging signs that this would happen, including an agreement for the five key Aboriginal corporations to meet with the Congress with the view to forming an alliance with and membership of the Congress. The Annual Report saw this, if achieved, as 'one of the most significant achievements. Feedback from Aboriginal leaders, government and non-government agencies, and in particular the resource industry is that if this alliance is achieved the potential for appropriate program delivery and redesign of services is enormous' (2010: 4, 17).

In the first year of its existence, the Congress achieved some identifiable results. Among these (2010: 24, 25) were the relocation, in cooperation with NAC and the Department of Housing, of thirteen elderly Aboriginal people squatting at the Mt Welcome station homestead; giving active support to NAC's NASH residential and commercial land development; and assisting in gaining agreement with resource companies for significant, coordinated investment aligned to the Roebourne Rejuvenation Project, with Woodside agreeing to take the coordination role for resource company investment.

Nevertheless, the Annual Report acknowledged that 'the Congress model is fragile due to the lack of continued on the ground support and financial support' (2010: 27). A year later, the Chief Coordinating Officer's informal view was that Congress was 'fading'.⁷³ DIA continues to provide secretarial support, as it has from the beginning, but the process is struggling. There are a number of factors involved. The Yindjibarndi dispute with FMG and consequent internal divisions has had a very big impact at both community and organisational level. As one of the town's key organisations, YAC has indicated the possibility of its participation but has had little

⁷³ Telephone interview, 24 August 2011.

active involvement. Involvement of the other main organisations has been cautious and is waning. Fuelling their concerns has been Congress's lack of due process – meetings with no agenda or minutes – and a non-elected community membership. With the body having been established to exercise local Aboriginal control, DIA is reluctant to impose these requirements, though continues to take meeting notes in order to maintain some record.

At the heart of the problem, however, is that Congress, in its current form, has failed to achieve essential support from its theoretical constituents: it has no legitimate representative status and therefore no authority. Nor is it building on its early achievements and continuing to deliver outcomes for people. It fails the two defining elements for achieving cultural legitimacy (Hunt and Smith 2007: xiv-xv; paper 1).

An alternative approach might rescue Congress and is being considered by the Chief Operating Officer. It would be based on a membership drawn wholly from the town's organisations rather than including community members. If this were to occur, a reconstituted Congress would be drawing on the experience offered by successful Indigenous governance institutions, that is, an institutionally networked body based on representation that has been legitimised through Aboriginal principles for decision-making and relational autonomy (see Introduction paper).⁷⁴

4.2 Government engagement

Although government would prefer to deal through a unified channel for Roebourne, it does not offer a single voice in return. As one long-term Roebourne resident expressed her view, the trouble with governance in Roebourne is government. The multiplicity and lack of coordination of agencies in the town is a decades-long problem (see Edmunds 1989, Uniting Church Frontier Services Report 1996). Shanks (2009: 24-25), identifying issues that are also of central concern to the broader remoteFOCUS project, makes clear that this remains a pivotal issue and for that reason is quoted here at length:

Given the multitude of programs, services and service providers active in Roebourne, the need for effective mechanisms to coordinate between agencies is fundamental to efficient and effective service provision. From discussions with Government and non-government agencies a number of impediments to effective coordination at both the regional and localise level are identified. Some of these include:

- A lack of delegation at the regional and district manager level to make decisions and to respond to emerging needs and priorities

⁷⁴ A recommendation to support this process is included in the Introduction paper.

- Rigid program and funding guidelines that mitigate against flexible and responsive service delivery
- A lack of discretionary funds with which to respond to local needs
- Individual agencies under pressure to focus on core business at a cost to intersectoral collaboration
- Community politics encourages inertia, as it is impossible to satisfy all sectors
- Increasing number of interagency and community forums consuming the time of senior managers and officers
- A serious impact on all service delivery with the increasingly high turn-over of agency staff resulting in the loss of relativities and understanding of key networks and relationships
- Variable skills and motives of key staff posted to the Pilbara
- Interpersonal and interagency conflicts
- A history of Perth and Canberra failing to support the needs and initiatives of the Pilbara (Note: Implementation in 2007 of the Pilbara Industry Community Council (PICC); the recently announced Pilbara Revitalisation Plan through the WA State Budget 2009/2010; and, the action of the States AACC to identify Roebourne as a priority has seen a change of focus at the highest level in recent times).

Shanks goes on to summarise these concerns from yet another of the many reports that she lists from earlier Roebourne studies and that reiterate the same factors (2009: 25):

In the 'Miles Brief' (2006) it stated that 'a major problem affecting the implementation of solutions lies in the fact that generic programs aimed at dealing with the issues were deemed unrealistic, for though they are prototyped in Canberra, they hold unrealistic expectations of what is really required at the community level with regards to funding, hours, distances between places and practice. Large amounts of government funding exist in Roebourne. The biggest industry in Roebourne is Human Services. The funding has led to a collage of services depending on what the current dominant view was at the time of funding, or the Government service was made available, and then remains. The services take on a political aspect and are then in competition with other services for resources, people, and status. This leads to conflictual relationships and siloed approaches to work in the community'. This is still evident today.

It is clear that, in addition to the more proactive approach being taken by government in Roebourne and across the Pilbara – indeed across remote Australia generally – there is still a long way to go to address its own functionality and governance.

4.3 Royalties for Regions

The introduction of Royalties for Regions has provided a significant new channel for local as well as regional schemes to access funding. In the present Pilbara planning hyperactivity, Roebourne has tended to be overshadowed, and potentially swamped, by regional and Pilbara city issues, with a focus on Karratha, and even Wickham, for further development. Roebourne receives a passing mention in Regional Development Australia's Preliminary Pilbara Regional Plan (August 2010) and is included, as mentioned earlier, in the WA Planning Commission's *Pilbara Planning and Infrastructure Framework*, along with Paraburdoo and Pannawonica, in the third tier of 'towns' (February 2011: 30). The Framework offers high-blown rhetoric but no practical ways of achieving what it unblushingly states to be Roebourne's future role and character as 'a vibrant town with a strong Aboriginal community business and cultural focus'. The one planning initiative that the Framework does mention is NASH. NASH is also identified in the Department of Regional Development and Lands' presentation to the May 2010 Pilbara Dialogue (Mann, Pilbara Cities).

The success of NASH in gaining recognition suggests two things: one is that NAC is operating successfully and strategically as an Aboriginal organisation in the intercultural domain. Another is that sound local projects have the opportunity for substantial support, including funding, through Royalties for Regions. The latter is confirmed by two grants already approved for NASH through the Regional Infrastructure and Headworks Fund: \$500,000 in 2009-2010, and \$4.5 million in 2010-2011. In 2010-2011, a further \$5 million was allocated for other Roebourne housing initiatives through the Department of Housing's Roebourne Revitalisation Plan (Royalties for Regions Progress Report 2009-10; Royalties for Regions Snapshot 2010-11).

There are other networked projects that have arisen from local Aboriginal concerns and involve Roebourne Aboriginal people. They tend to be lower profile because they are carried out outside the confines of the town, and because they are facilitated through a more broadly based regional organisation like Yamatji Marlpa Aboriginal Corporation. They offer a potential model for consideration in the discussions about a Pilbara Aboriginal regional voice.

4.4 Pilbara Sea Country Plan

A regional organisation like Yamatji Marlpa has the capacity to take on board Aboriginal concerns, including native title concerns, that extend beyond the

interests of any one particular language or native title group. The need for this kind of more broadly representative body was recognised very early in the life of Native Title Representative Bodies by their first review (ATSIC, The Parker Review 1995: 37):

3.69 The Review Committee recommends a large regional level of jurisdiction for NTRBs [Native Title Representative Bodies] as being the most cost-effective; providing a sufficient population mass to generate organisational economies of scale; and most successfully facilitating a representative capacity.

Yamatji Marlpa demonstrates the potential effectiveness of such an approach, leaving open the question about the form of association. In this instance, they have brought together seven of the native title groups who include coastal areas in their countries, in order to provide ‘a united and integrated Indigenous response’ to the ‘extraordinarily rapid and intense pressure as a result of the resources boom in iron ore, gas, and other commodities’ (Pilbara Indigenous Marine Reference Group 2010: 4).

The result was the formation in 2009 of the Pilbara Indigenous Marine Reference Group as a forum and support group ‘that could assist prescribed bodies corporate and claim groups in their decision making’ (2010: 7). The Ngarluma/Yindjibarndi native title holders are represented on the body. Initial funding was provided by Rangelands NRM (Natural Resource Management) (WA), both the Department of Environment and Conservation (DEC) and the Department of Fisheries have offered their support, and Yamatji Marlpa has applied to the WA State Natural Resource Management office for funding to develop action plans and marine and coastal conservation projects (2010: 5, 11). Since its inception, the Reference Group has had regular contributions from six of the member groups (2010: 6), indicating the willingness of local Aboriginal people to look beyond their immediate concerns to a broader set of issues and groups.

One of the ‘huge challenges’ raised by ‘the unprecedented pace of development in the Pilbara’ is posed by the ‘fragile nature’ of the coastal and marine zones, ‘the reduced capacity to understand their dynamic ecologies and the differences in legal and policy arrangements between land and sea’ (2010: 4). In order to address these challenges, the Pilbara Indigenous Marine Reference Group developed a clear set of priorities in its first year. Without setting them out here in full, they covered the following (2010: 8-9):

- Develop accredited training, apprenticeships and skill building.
- Develop employment opportunities – including but not limited to – rangers, and environmental/cultural monitors.
- Coordinate with relevant agencies for improvement of land management practices where they may impact coastal or marine issues.

- Promote Indigenous participation in fisheries management, including explanation, discussion, and negotiation of customary fishing rules.

It may be that, despite the fragmentation – or atomisation (Sutton 2003) – experienced by Roebourne and other Pilbara Aboriginal people in the struggle for specific group recognition through native title, a regional networking approach dealing with common concerns, like the Pilbara Indigenous Marine Reference Group, offers one way of thinking about other regional coalitions of groups in the future (a topic that will be taken up in paper 5).

5. Any still points in a rapidly spinning world?

It should be clear by now that the dire statistics for Roebourne reported time after time over the recent years do indeed represent a set of confronting social problems that require urgent attention. But it should also be clear that they do not constitute the totality of Roebourne social, cultural, economic, or even daily life. There is much else going on; and many of the activities that are starting to create a way forward are those that reflect, or accept, local Aboriginal people's values and concerns. They are also activities, like NASH, Juluwarlu, or Ngarluma/Yindjibarndi involvement in the Pilbara Indigenous Marine Reference Group, that are being generated and developed through local Aboriginal organisations. This is not in isolation from engagement with and support from both government and industry, but they connect nevertheless with what it is that Roebourne Aboriginal people want. And this has remained constant because Pilbara Aboriginal people remain the true locals within the whirling configurations of non-Aboriginal residents and fly-in fly-out fly-by-nighters: or at least fly-by-work shifts.

That focus on the truly local and on what Roebourne people want, of course, is at risk of being lost in the overwhelming pace of broader Pilbara planning and development. Nevertheless, the work of the Aboriginal Affairs Coordinating Council's Chief Operating Officer indicates that the principles of partnership and mutual accountability remain on the government's agenda, at least for now. These principles are also taken seriously by the major resource companies in terms of their social licence to operate in the region. Other companies attempt, with greater or lesser success, to take them into account. The dysfunction in Roebourne itself, and the fragmentation and limitations on adequate governance capacity in Roebourne Aboriginal organisations also pose significant obstacles to the achievement of the very goals that they have set themselves. But this only becomes an issue because Roebourne offends the illusion that planning will give governments and Pilbara agencies control over the economic imperatives that currently dictate what is happening.

New modes of engagement such as the establishment of a Roebourne Aboriginal Congress offer a joint way forward out of dysfunction. But it is important to remember that, although a possible reconstitution of Congress as a single point of

contact with Roebourne Aboriginal people may smooth the processes of negotiated engagement for government and industry, it cannot carry the sole burden of providing the solution to the problems experienced in Roebourne. It may prove to be part of the solution, but only if government delivers a sustained approach through consistent policy, responsive programs, on the ground engagement, and reliable support and funding.

The review of what it is that Roebourne Aboriginal people want to achieve has been remarkably constant over the development decades. That has provided the thread of continuity through all the social and economic problems that are so visible to outsiders. It is not goodwill, though that matters, that will make the difference in Roebourne, but the effective involvement in practical partnership of local Aboriginal people and organisations. The challenge to achieve that is one for Roebourne Aboriginal people themselves, but also for industry and for government. And that will become a key part of the stories that are still to be told about Roebourne, and then about Roebourne as a pivotal point in the broader Pilbara story.

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13. Harnessing the cyclone - Gumala Aboriginal Corporation: a case study

Dr Mary Edmunds

1. Introduction

The principal theme linking this series of remoteFOCUS papers is that Aboriginal organisations provide a visible ‘point of articulation between external agencies and an Aboriginal domain’ (Levitus 2009: 75), or, moving away from the notion of a ‘separate’ Aboriginal domain, that ‘the field of governance is intercultural [and] marked by ongoing forms of socio-cultural difference, similarity, and mutual engagement and transformation (B. Smith 2008: 158). The papers propose that it has been through active negotiations and hard-won agreements that Pilbara Aboriginal people have carved out for themselves some spaces for the exercise of self-determination. This paper sets out to test these propositions with respect to one organisation, Gumala Aboriginal Corporation (GAC). By the same token, the paper also addresses issues in relation to Gumala that test approaches by both government and resource companies to the stated goal of ‘closing the gap’ in Indigenous disadvantage.

2. How Pilbara Aboriginal people organise and interact with change

2.1 Background

Change came to Pilbara Aboriginal people with the arrival of pastoralists in the 1860s, followed by pearlers. This coincided with the emergence of representative government in Western Australia in 1870 and a gradual shift in government native policy. Up to this time – before which ‘it can scarcely be said that there were any politics in the colony, but only grievances’ (Hasluck 1970: 36) – there had been no coherent policy. Instead, ‘the first business of authority was to quell disorder, while preventing undue violence against natives and, that done, to undertake the work of training the natives for civilisation’ (1970: 43).

Hasluck also notes that, after 1870, ‘in northern conditions, the natives were being widely employed’, giving rise to a need to regulate their employment. The result was the passing of the *Aborigines Protection Act* in 1886 and the appointment of an Aborigines Protection Board after 1888 (1970: 43, 44). Other ‘protective’ legislation followed over the next decades, those with most impact being the *Aborigines Act 1905* and the *Native Administration Act 1936*. The 1905 Act, among other

provisions, empowered the Governor to declare areas prohibited to Aboriginal people and to establish Aboriginal reserves. In addition, the Chief Protector of Aborigines was made the legal guardian of every Aboriginal and half-caste child until that child attained sixteen years. The 1936 Act replaced the word 'Aborigines' with 'natives' and the Chief Protector with a Commissioner of Native Affairs. The 1936 Act also extended the period for which the Commissioner was to be the legal guardian of all natives from sixteen to twenty-one years old. Even after the age of twenty-one, no native could marry without prior notice to the Commissioner, who could withhold his consent (McCorquodale 1987: 95, 97-98).

Peter Coppins' experience is just one example of the impact of the legislation on people's daily lives (Read and Coppin 1999: 39):

Peter Coppin was just 16 then [1936]. The Act meant that the Commissioner of Native Affairs was his legal guardian for another five years. The Commissioner could object to any marriage plans, or the Minister could order him out of town or prohibited areas. Peter Coppin was not allowed to be in Port Hedland after dark. He could not stay there, he could not visit white people living there (if he had wanted to) and nor could he enter any bar to drink with the white squatters or miners who had also surged north to peg leases in the mineral-rich Pilbara. Peter Coppin was not allowed to vote, was not a citizen of Australia and, now, under the 1936 legislation, was reclassified as a 'native'.

Nevertheless, a decade later, Coppin was one of the leaders of the Pilbara Aboriginal pastoral strike and actively involved, along with the other Aboriginal strike leaders and non-Aboriginal activist, Don McLeod, in the establishment of the Northern Development and Mining Company (Nodom) in 1948 (Rowley 1972: 255; McLeod 1984: 47). Even with McLeod's involvement – 'this enterprise was theirs, not mine' (McLeod 1984: 99) – this was 'the first private company set up by Aboriginal people in Western Australia' (Read and Coppin 1999: 113). Indeed, as Scambary points out, 'the strike of 1946 provided a catalyst for increased economic participation of Indigenous people in non-pastoral activities' (2007: 63). One of these non-pastoral activities was small-scale mining. Aboriginal people had engaged in alluvial tin mining from the time of its discovery near Nullagine in 1892, using the *yandy*, a traditional winnowing dish, to separate out the minerals. By 1906, there were approximately 300 people Aboriginal people, many of them women, working on the tin fields (2007: 58). Nodom added the mining of wolfram, earning enough through their economic activities to buy Yandeyarra and three other stations from the mining profits (Rowley 1972: 255).

Although Nodom subsequently came to financial grief, it had bought a home for Aboriginal outpatients at Marble Bar, was working Yandeyarra, and had forced up station wages in the Pilbara by the time it went into voluntary liquidation in 1953 (1972: 254). Operating as a co-operative, the company had also 'allowed the strikers

and, indeed, many other Indigenous people, to survive in the mainstream economy in the absence of any state implemented safety net' (Scambary 2007: 63). A similar function was fulfilled for some years by a related organisation, the Pindan Company, that was formed in 1955 after the collapse of Nodom (Holcombe 2006: 6) and, in the 1960s after the split within the group, by the Mugarinya Pastoral Company and the Nomads Company. Of these organisations, only Mugarinya and the Nomads remain in existence. Mugarinya runs Yandeyarra and Nomads the Strelley and associated stations.

Nevertheless, these early organisations provide examples of what Rowley terms 'their own legal-economic carapace' (1972: 255):

[By] the late fifties, they had built their own houses at the 'camps' and won the right to carry arms, drive trucks, and use explosives. They had a company independent of the government. They needed only to work for the stations when they wished. They were a group which had built their own legal-economic carapace *and under this were working out the changing standards of a new social order*. They had the old problems of disorder and drunkenness, failure to maintain children, and family disputes, which for so long had been taken to paternal protectors. All these they settled in their own ways. They were demonstrating that cultural differences are best left as matters for the people whose business they are; that within the legal framework of a registered company, it is possible to come to terms with the hard facts of the local economy. (Emphasis mine.)

There were other significant characteristics of these early organisations that continue to resonate. One was that 'highly structured lines of authority operated over the span of Nodom and Pindan' (Holcombe 2006: 11); and these lines of authority were vested in leaders who gained legitimacy, both with 'business acumen and a solid command of English' and also with 'credibility in the arena of Indigenous law' (2006: 8). Another was that the mining camps 'were established within a well-known area defined in contemporary economic and social terms, rather than in classical cultural and sociolinguistic terms' (2006: 9). Related to this was that the companies, and the movement on which they were founded, demonstrated a regional dimension, with thirteen 'tribes' or language groups represented in the membership of Pindan: 'the concept of regionally dispersed and layered community governance operated as a means to mesh local authority with collective scope' (ibid.). Finally, and despite operating with a reasonable level of success in the intercultural arena, the common interests that held the various groups together became weaker over time than a growing diversity. This was based in the particularities of smaller groupings but also in growing dissent about McLeod's deeply ideological framework, and led to the split between those, like

Peter Coppin, who became the Yandeyarra mob, and those who remained with McLeod and the Nomads.⁷⁵

None of this was known about, or mattered, to the resource companies who moved into the Pilbara after the Federal Government's lifting of the iron ore export embargo in December 1960 (Kerr 1975: 107). Eggleston, a long-term Hamersley iron staff member, described it this way (2002: 2):

Aboriginal people in the region were, to all intensive purposes, 'invisible' to the developers of large Pilbara mining projects in the sixties. They generally lived in coastal communities remote from the projects and had few, if any, acknowledged rights. Thirty years of intensive development in the Pilbara has largely by-passed them and brought little by way of benefits to them.

Nor were there any established Aboriginal organisations in the 1960s or 1970s with whom the companies might have dealt, even had they been so inclined. The WA *Aboriginal Heritage Act* was passed in 1972, but gave minimal protection for Aboriginal land interests. For three decades, until the passing of the *Native Title Act* at the end of 1993, no resource company had ever consulted Aboriginal people about any mining development, 'let alone invited them to negotiate over a project' (Senior 1998: 7). Hamersley Iron (now Rio Tinto Iron Ore) in 1996 was the first to do so.

2.2 The impact of exclusion

Hamersley Iron was not the only resource company involved in the initial iron ore mining boom. The other key companies, mostly in joint ventures, were BHP, now BHP Billiton, Goldsworthy Mining Ltd., also now BHP Billiton, and Cliffs-Robe River, now part of Rio Tinto Iron Ore. The Woodside-managed North West Shelf oil and gas venture was still in the exploration stage in the 1970s; it began building its onshore facilities on the Burrup Peninsula in the early 1980s, when the new towns of Dampier, Wickham, Karratha, and South Hedland had been established on the coast and Newman, Tom Price, Paraburdoo, Pannawonica, Shay Gap, and Goldsworthy inland. All but Karratha were closed company towns and local Aboriginal people were excluded.

This exclusion, by both companies and government, ignored the experience of mining that had been built up among groups of Aboriginal people. Mt Goldsworthy was the first of the iron ore deposits in production (Kerr 1975: 108) and Wikipedia, in its Goldsworthy entry, quotes:

⁷⁵ See remoteFOCUS paper 1, *Doing washing in a cyclone, or a storm in a teacup?*, section 4.

Ernie Mitchell, Chairman of Directors of an indigenous corporation known as the Pindan Group, called for an iron ore export licence to be issued to his organisation. Mitchell argued in a pamphlet issued in the early 1960s that:⁷⁶

‘The granting of an export licence [for iron ore from Mount Goldsworthy] to us, the only successful self-contained Aboriginal group in Australia, would go a long way towards silencing the many critics of Australia's policy towards the original Australians.

Furthermore: We do not ask for an export licence on terms different from those that would be applied to other persons or groups. We do ask that the following facts be considered:

1. We are lifetime residents of the district.
2. We have the mining skills, and the workforce necessary to handle the project.
3. We are familiar with the problems that may arise, and have experience of solving such problems in recent years. We have been basically responsible for producing many thousands of tons of valuable minerals.
4. We can make arrangements equivalent to those of any other sound business concern, and we have a pool of labour, resident in the district, and accustomed to working in the climactic and other arduous conditions of the Mount Goldsworthy area.
5. We are aware, as all Australians should be, that our country's policy in New Guinea towards the natives, and in Australia towards us, has been vigorously attacked in the councils of the United Nations Organisation ... We feel to grant us, the Aboriginal people of the Pindan Group, an iron ore export licence, would go a long way towards convincing such critics of our Government's sincerity and goodwill towards us, and would be a major

⁷⁶ Indigenous accumulation and the question of land in the Kimberley region of Western Australia: pre 1968-1975 by: Tony Smith, University of Western Sydney, accessed: 27 May 2010 (Wikipedia reference). This, or a related article, may be Indigenous accumulation in the Kimberley during the early years of ‘self-determination’, 1968–1975. *Australian Economic History Review*

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contribution to the realisation of our plans to raise our standards to the level of our white fellow Australians by enterprise and hard work. We do not seek charity.'

The Pindan group was not issued with the licence, and the exclusion continued. Scambary reports (2007: 96):

A senior Nyiyaparli woman now resident in the mining town of Tom Price, recounted that her now deceased husband, an experienced miner, was arrested for entering the town in 1982, a time when Tom Price was a restricted-access mining town (AU, 8/21/2003). The purpose of his visit was to seek employment with the mining company.

Yet, by 1982, the major companies had begun to encourage the employment of local Aboriginal people, both directly in mine-related work and with small contracts, such as the contracts for unskilled work with Ieramugadu in Roebourne. In 1986, Robe River's apprentice of the year was a young Innawonga man, Brendan Cooke (Edmunds 1989: 64). But long-term, systematic exclusion and marginalisation had resulted in a loss of the experience and skills that had allowed the brief flourishing of companies like Nodom and Pindan, with their commitment to 'enterprise and hard work'. For the generations born during and after the initial mining boom of the 1960s, this history was no more than echoes of 'old, unhappy far-off things, and battles long ago'.⁷⁷

By the 1980s also, however, there were new battles to be fought. A definitive one that brought to a head many of the tensions between Aboriginal people and the resource companies in general, and Hamersley Iron in particular, was Marandoo.

2.3 Marandoo

The Marandoo iron ore deposit is located on Eastern Guruma country and in Karijini National Park.⁷⁸ Hamersley Iron had acquired the leases in the early 1980s and began active planning for its development towards the end of the decade. There was strong opposition from Aboriginal groups, not only Eastern Guruma, but others like Bunjima and Innawonga who also have traditional connections. Before the passing of the *Native Title Act*, the only legislative vehicle for the opposition was the State's relatively weak *Aboriginal Heritage Act*. This Act requires identification of sites of cultural importance in order to prevent or minimise disturbance or destruction, subject to a final decision by the Minister. Trebeck (2009: 136) summarises the issues:

⁷⁷ William Wordsworth, *The Solitary Reaper*.

⁷⁸ Previously Hamersley National Park.

Hamersley asserted that anthropological and archaeological studies conducted since 1974 found no significant Indigenous sites, and when taking ownership of the Marandoo area in the early 1980s it also acquired clearances obtained by the previous owners. Hamersley refused to conduct another survey of Indigenous sites at Marandoo. The Western Australian Government eventually commissioned a further study that found four sites of cultural significance, two of which were located on top of the ore body.

At one stage, ‘members of the Karijini Aboriginal Corporation, which represented the interests of the Banyjima, Yinhawangka and Eastern Guruma people of the Hamersley Ranges, mobilised and occupied the construction site’ (Scambary 2007: 98).

Despite these concerns, some senior Aboriginal people also saw the potential benefits for their communities of the mine going ahead. Eastern Guruma man, Peter Stevens, told how he and Bunjima man, Horace Parker, took credit for their role in getting approval for the mine to go ahead (Holland-McNair 2006: 68):

I started to have a direct relationship with Hamersley when they couldn’t get that Marandoo going. That land is important to me and my people because my Great Grandfather’s buried in the cave after being shot by white people. My Grandfather and Uncle and family also been living in that place.

Hamersley wanted to mine Marandoo but those lawyers and Banyjima people had them by the finger and they couldn’t move. We sit back a bit for a while and see what’s going on. So me and old Horace Parker (Banyjima Elder), we the two straight guys me and old Horace Parker, we straight cause that’s our family too, putting the block on Marandoo. We got that Marandoo going, me and that old fella, with only the help of Carmen Lawrence’s sister Helen who was a lawyer to fight the battle against the Banyjima lawyers. Old Horace passed away now. They all passed away now the other old fellas. We pushed Marandoo, that’s why they got that Marandoo going.⁷⁹

Despite this support, Hamersley’s problems were compounded by the Marandoo deposit being in a national park. After a delay of two years, the State Government excised the mining lease from the national park in 1991 and passed the *Aboriginal Heritage (Marandoo) Act 1992*, excluding the area from the application of the *Aboriginal Heritage Act*.⁸⁰ Eggleston comments (2002: 2), ‘This marked a low point

⁷⁹ Ngimaliny, Peter Stevens, had also passed away by the time this account was published, but his family gave permission for his story to be included (Holland-McNair 2006: 66).

⁸⁰ In more recent years, Rio Tinto planned to approach the State government to have the *Aboriginal Heritage (Marandoo) Act* repealed. Perhaps surprisingly, the Eastern Guruma

in Aboriginal relationships for the Company which, regardless of the rights and wrongs of the case, left a legacy of deep distrust and bitterness in the communities’.

Hamersley Iron’s first attempt to improve relationships in the aftermath of the Marandoo dispute was the establishment of their Aboriginal Training and Liason unit (ATAL) in 1992. ATAL’s primary role has been to improve training and employment opportunities for Pilbara Aboriginal people and the unit, and particularly the people like Bob Beeton, Stuart Robertson, and Mark Simpson who initially developed the program, are regarded by them with considerable affection.

The major shift in the company’s approach, however, came with Leon Davis’s announcement in 1995 that CRA – as it then was – would work with the *Native Title Act*. In his speech, he also acknowledged that the ‘long drawn out struggle to get the official approvals necessary for Marandoo emphasis the need for an...innovative approach to the non-engineering aspects of the project’ (1995: 2). Planning for the next Pilbara mine at Yandicoogina provided the company with the opportunity to put Davis’s words about innovation into practice.

3. Yandicoogina and the creation of Gumala

Hamersley Iron’s planning for the development of their Yandicoogina leases in 1994-95 was CRA’s first project to be undertaken in Western Australia after the passing of the *Native Title Act* at the end of 1993.⁸¹ Early consultation was undertaken in 1994 about the initial rail alignment, with the result that a route suggested by a senior Bunjima elder ‘was eventually adopted in preference to the company’s planned alignment’ (Eggleston 2002: 5). This was because of the potential heritage problems raised (Senior 1998: 2). At this stage, there were no native title claims lodged over the area and consultation took place outside the formal native title framework. So too did the company’s decision in 1995 to negotiate an agreement, though this was heavily influenced by Leon Davis’s March 1995 public commitment to changing the way that CRA did business and by active support from senior management at Hamersley itself.

Senior (1998: 2) suggests that, at these early stages, the process was ‘unilateral in character involving only Hamersley’. From Hamersley’s perspective, that may well have seemed the case. It does not represent the actions being taken by the affected groups. Their decisions were hammered out in a series of bush meetings in the first half of 1996 (Eggleston 2002: 6). These meetings were funded by Hamersley in

people indicated some reluctance for this to happen (Bill Hart then Rio Tinto Iron Ore General Manager Communities, pers. comm.).

⁸¹ Planning for the development of their Century Zinc project in Queensland was being undertaken at around the same time.

order to establish who were the right people with whom they should negotiate. Senior (1998: 5) suggests that this step to fund meetings outside Hamersley's control was taken with some trepidation, one company executive likening the possible outcomes to 'letting the tiger out of the bag and hanging onto the tail'.

Whether the metaphor proved to be justified or not, the bush meetings resulted in the three groups deciding to join together in a single large native title claim that was lodged and registered with the National Native Title Tribunal in June 1996. This was the Bunjima Niapaili Innawonga claim (later Innawonga Bunjima Niapaili – IBN – claim). The claim was mapped and formulated without the support of the then Native Title Representative Body, the Pilbara Aboriginal Land Council (PALC), based in Port Hedland.⁸² Although the PALC was approached for support and funding, it declined to give either. This was on the basis of their view that the joint claim did not represent the proper traditional cultural boundaries that should have been separate for each of the three language groups (correspondence from Gumala Chair, Charles Smith, copied to the then Minister for Aboriginal Affairs, Senator John Herron, 25 September 1998).

What PALC's position ignored was that the decision of the three groups was arrived at with the consent of senior people in all three groups: senior people, that is, with the authority to speak for and make decisions on behalf of their groups in relation to traditional matters, especially country. It also ignored the network of relationships, traditional and resulting from intermarriage, that connected people across the three groups. And, despite its own regional responsibilities, PALC failed to recognise the possibility of a more regional initiative that could build on native title as defined under the *Native Title Act* while, at the same time, working together on the basis of a common interest.

Even after the claim was lodged, however, and in the absence of representation from the Native Title Representative Body, there remained the question of 'how the three tribal groups should organise themselves and, in particular, whether they would choose to negotiate together or independently' (Senior 1998: 7). The groups' further collective decision was, in many ways, as innovative as Hamersley's had been in choosing to negotiate. They set up a new organisation, Gumala – Bunjima word for 'all together' – to represent, negotiate on behalf of, and bind its members. The organisation was incorporated in July 1996, just a month after the registration of the joint native title claim, with a committee of eighteen members, six from each of the three groups. Its first chair was Charles Smith, a young Bunjima man who had been a key player in developing the idea both of the claim and of an organisation with responsibility and authority to negotiate and implement an agreement.

⁸² The PALC's role as a Native Title Representative Body ceased in 2000.

The Yandicoogina Land Use Agreement (the Yandi agreement) was signed eight months later, in March 1997. The negotiations had been tough, there were internal tensions within Gumala, there had been occasions when all looked lost but, in the end, the process worked and the alliance of the three Gumala groups held. Although negotiated outside the formal framework of the *Native Title Act*, the Yandi agreement was the first major native title resource agreement to be finalised after the passing of that Act, pipping the much more public Century Zinc agreement in Queensland by six months.⁸³

4. Gumala and the Yandi agreement

The Yandi agreement itself is confidential, so many details are not in the public arena. The key provisions and general structure, however, are known and are set out on the Gumala web site (www.gumala.com.au). The benefits to be provided for Gumala members over the life of the mine include education, training, and employment opportunities and initiatives; support for pastoral station operations; heritage protection work; in-kind assistance for community development; community development; health and well-being programs; and financial benefits. Two charitable trusts were established for the distribution of income from the agreement: the General Gumala Foundation, that was to last for the life of the agreement, and the Foundation for the Elderly and Infirm for the first five years. The General Gumala Foundation is now the only trust still operating. No cash payments are made directly to individual members.

4.1 Architecture of the agreement implementation

The structure established to implement the agreement has three core components: Gumala Aboriginal Corporation (GAC), Gumala Investments Pty Ltd (GIPL), and Gumala Enterprises Pty Ltd (GEPL). From 2009, GAC's Board was made up of nine

⁸³ The Century Zinc negotiations were also between CRA and Gulf native title claimants though the agreement was finally signed after the mine had been sold to Pasminco. In this instance, CRA chose to carry out the negotiations under the *Native Title Act's* Right to Negotiate processes. The Queensland government issued a s29 notice but CRA and subsequently Pasminco continued the negotiations well beyond the statutory period required by the *Native Title Act*. Although the proceedings were eventually referred to the Native Title Tribunal for arbitration, the parties finally reached agreement through mediation. The Gulf Communities Agreement was signed in September 1997.

of the Gumala members,⁸⁴ three elected from each of the language groups – Bunjima, Innawonga, and Nyiyaparli – and is the organisational heart of these arrangements; but, up until changes in train in 2011 to the agreement structure, GAC does not directly control the money paid as part of the agreement.

This money goes directly to the General Gumala Foundation and GIPL acts as the trustee. GIPL is wholly owned, but not controlled, by GAC. On the contrary: the Trust deed sets out that GIPL has the power to ‘direct, supervise, and control the manager’, the manager being GAC. The GIPL Board is made up of six Directors: one from each of the language groups and three independent Directors. The independent trustees, not the whole Board, appoint the Chair who, in the case of a tied vote, has the casting vote; and, if one independent Director resigns, the other two independent Directors – again, not the whole Board – can appoint a new one. The power in these arrangements, which is ultimately about the money, rests clearly with the independent Directors.

GAC’s role in relation to the distribution of money is to make recommendations to GIPL. The recommendations are made after GAC has consulted with the traditional owners and developed, researched, and prepared proposals for investments, community projects, and other matters falling within the objects of the General Foundation. However, it is GIPL, as the trustee, that makes the actual decisions about how the money in the General Foundation is to be used. The agreement also provided for an Advisory Trustee Company to give independent advice to GIPL on significant investments and other such decisions, to make policy recommendations, and to exercise general oversight over the Foundation’s operations. The Advisory Trustee Company was initially for the first ten years only but has been reconstituted and modified. It is to comprise four members, two from Rio Tinto⁸⁵ and two from GAC, with a Rio Tinto member to be Chair and to have a casting vote. Its role is to provide high level governance advice, though it has some other responsibilities that will be looked at below. Once the decisions are made, GAC then acts as the manager of the money, though GIPL retains responsibility for overseeing GAC’s implementation.

In brief and in practice, the money from the agreement goes to the General Foundation. GAC makes recommendations to GIPL. GIPL makes decisions about investment and distribution. GIPL oversees investments. GAC manages the funds it

⁸⁴ This is reduced from the original eighteen, with six from each group, following a 2009 restructure required under the new *Corporations (Aboriginal and Torres Strait Islander) Act 2006 (CATSI Act)* (Gumala Aboriginal Corporation Annual Report 2008-09: 7)

⁸⁵ No one under the rank of Rio Tinto Iron Ore General Manager can sit on the Advisory Trustee company.

receives from the Foundation. The funds that go to GAC are used for organisational costs and community projects approved by GIPL.

The agreement also stipulates the breakdown for the money: investments are to be not less than 40%; education and training not less than 10%; business development not less than 20%; community development not less than 20%; cultural purposes up to 5%; and other discretionary purposes up to 5%.

This multiform governance structure put in place by the agreement is more a reflection of Rio Tinto's prudential requirements than of the relatively simple organisation initially crafted by the claimant groups to be the joint negotiating and implementing body for the agreement. The Ngarluma Aboriginal Corporation's trust arrangements described in paper 2 exemplify comparable, though less torturous, requirements.⁸⁶

Rio Tinto's principles and approach, modified but basically unchanged after more than a decade of making large agreements,⁸⁷ were set out in 2009 in a presentation by then Rio Tinto Iron Ore's John Litchfield:⁸⁸

- native title agreements are commercial negotiations;
- the quantum of benefits is linked to market outcomes, including scale of operations, production capacity, and price;
- the approach to negotiation and the implementation of native title agreements includes development of appropriate governance arrangements and effective 'checks and balances' in relation to benefits, consistent with Rio Tinto policy and the *Native Title Act*.

The presentation also set out Rio Tinto's negotiating position on financial benefits management structures, that:

- the entire native title group must benefit;
- benefits to future generations are catered for;

⁸⁶ As do the Argyle and Western Cape Communities Co-existence trust arrangements.

⁸⁷ In Australia: the Gulf Communities Agreement (Century Zinc) in 1997, the Western Cape Communities Co-existence Agreement in 2001, the Argyle Participation Agreement in 2004; in Canada, the Diavik Diamond Mine Participation Agreements in 2000. Rio Tinto now also administers the Ranger Mining Agreement in the Northern Territory that predates its takeover of ERA in 2000.

⁸⁸ Rio Tinto Iron Ore's Pilbara Native Title Negotiations, presentation to the Native Title and Cultural Heritage 2009 conference, Marriott Hotel, Brisbane, 27 October.

- the native title groups must use a suitable trust structure, and consider tax issues and administrative costs;
- Rio Tinto must have access to audit reports;
- Rio Tinto and the native title group must agree on the final financial benefits management structure.

Central to Rio Tinto's concern is sustainability: that money generated from its agreements not be dissipated but should benefit Aboriginal people over the long-term. Their view, rightly, is that good governance arrangements are essential for this to happen. Martin argues in support of this principle (2009: 109-10):

If good organisational governance is a core component of an increased capacity by Aboriginal people for strategic engagement with the dominant society, then it must draw not only from the values and practices of Aboriginal people, but also from those of the general Australian society. While the possibility of distinctive values and practices must be accepted as a basic premise in institutional design, the essence of developing appropriate Aboriginal organisational governance does not lie in supposedly resolving potentially conflicting cultural values and practices; rather, it is to be undertaken through establishing institutional structures and principles which are robust enough to encompass and engage diversity, competition and conflict, and which are appropriate to the task at hand.

4.2 Areas of member dissatisfaction

Nevertheless, more than ten years on, the Gumala experience suggests that the Rio Tinto model is not foolproof. There have certainly been gains for the Gumala groups. There has been a growing capital base through investments. It is reported that, as at June 2007, GIPL held approximately \$20 million (Siopis J, *Gumala Investments Pty Ltd v Lethbridge*, paragraph 2)⁸⁹, although anecdotal comments gave a figure closer to \$40 million (Holcombe 2009: 154). The third arm of the organisational structure – Gumala Enterprise Pty Ltd (GEPL) – is engaging in business activities that will be looked at in more detail below. The membership of Gumala has grown from a modest 132 in June 1997 to 1138 in June 2010 (Annual Report 2009-2010: 13), and continues to grow to the point that GAC is reconsidering the criteria for membership.⁹⁰

However, member dissatisfaction with the arrangements focus on two key areas. One is the restriction of funding to community projects, with no provision for

⁸⁹ [2007] FCA 934 (14 June 2007).

⁹⁰ Interview with Chief Executive, Steve Mav, 27 May 2011.

payments to individuals and therefore a sense among members that they have no access to or control over the compensation moneys. The other is the absence of opportunity for the beneficiaries of the Foundation to participate in GIPL's decision-making processes, leaving them with no sense of ownership of the Foundation.

Experience of the first restriction led to the same broad claimant groups negotiating a different organisational arrangement with BHP Billiton when they signed agreements over BHP's Area C mine (BHP Yandi) in 2000-2001. Similarly to Rio Tinto, BHP Billiton requires groups to establish trust or foundation structures for the management of financial benefits. The traditional owner negotiations for the Area C agreement were led by the same man, Charles Smith, who had been instrumental in the Rio Tinto negotiations and had been the first Gumala Chair. When not reappointed for a second term, he developed a separate organisation to engage with BHP Billiton, citing the negotiation of the Rio Tinto agreement as a learning curve (Holcombe 2009: 166).

The Area C agreements set up the IBN Corporation to act as trustee. Membership of the IBN Corporation is also open only to Innawonga, Bunjima, and Nyiyaparli people and overlaps with the Gumala membership, although the claimant groups were differently constituted by the time of the Area C agreements and certain Gumala members are excluded.⁹¹ In contrast to Gumala, the IBN Corporation has two trusts: a charitable trust, IBN Foundation No. 1 Trust, and a non-charitable (taxable) trust, IBN Financial Assistance Trust No. 2. Benefits from the Financial Assistance Trust are distributed through four smaller individual group Aboriginal Corporations (Scambary 2007: 202). Individuals must be a member of one of these small corporations to receive cash payments, with corporation committee members deciding on a final distribution of funds. Indications are that, even with the option of direct cash payments, the process does not work very effectively in practice (2007: 204).

In submissions to the Federal Government in 2010, both GAC and the IBN Corporation identified the restrictive nature of charitable trusts as a matter of concern. The GAC submission quoted one of its members, 'We feel as if we won the lottery, but someone else came along and ran away with all the money' (Gumala Aboriginal Corporation 2010: 12).

The second key area of dissatisfaction, of the relationship between the beneficiaries and the Foundation, is one that has grown since the Yandi agreement. It came to a head in 2007, when GAC attempted to liquidate GIPL in order to gain control over the distribution of Foundation funds.

⁹¹ These issues will be dealt with later in the paper.

4.3 The challenge of internal and intercultural tensions

Despite the presence of three Gumala members as GIPL Directors, Gumala members in general expressed their frustration that decisions were strongly influenced from Perth by the independent Directors who, in their view, were remote from the real issues that concerned Aboriginal people in the Pilbara. The dispute was taken to court, when GIPL successfully applied for an injunction against GAC's taking the necessary action to achieve their liquidation (*Gumala Investments Pty Ltd v Lethbridge* 2007). A mediated settlement, the Dampier Agreement, was subsequently reached in 2007 (Holcombe 2009: 156) and the following year, a review of the Foundation – a second review – was undertaken by the Parakeelya group from South Australia. Their report included recommendations for changes in governance and in the relationship between GAC and GIPL.

In the same year, 2008, a new Chief Executive, Steve Mav, was appointed. He arrived at a moment when the Office of the Registrar of Indigenous Corporations (ORIC) decided to conduct the first group examination of entities not yet registered under the new *CATSI Act*. This was in the wake of the 2007 court case, when the GIPL Board had raised concerns with ORIC about GAC, as a result of which ORIC had imposed conditions on GAC. The status of the Gumala review is illustrated by the personal oversight of the ORIC Registrar, Anthony Bevan (Annual Report 2008-09: 8). Gumala emerged unscathed from this major examination of their books and the ORIC conditions were revoked.

GIPL – registered with ASIC under the *Corporations Act* rather than under the *CATSI Act* – did not fare so well, with their auditor identifying certain problems. This was after a period of detente between GAC and GIPL throughout 2008 and became part of a general deterioration in the internal functioning of GIPL and in the relations between GIPL and GAC, in which Rio Tinto also become closely involved.

In 2009, the second five-yearly review of the Yandi Land Use Agreement (YLUA), required by the agreement itself, was carried out by the Hon. Fred Chaney and former Tasmanian Premier, Paul Lennon. Like the Parakeelya review, their report, submitted in November 2009, recommended completion of the restructuring of the Gumala Foundation and supported a merger between GAC and GIPL (Annual Report 2010: 10).

Despite the clear recommendations from all the reviews for this to happen, and an in-principle agreement to the merger by GIPL in December 2009, the implementation was never going to be simple. It is difficult to say whether it might have been more expeditious, though resistance by some of the GIPL independent Directors undoubtedly prolonged the process. It has only been in the latter half of 2011, nearly two years after the Chaney/Lennon recommendations, that firm provisions have finally been put in place to make it happen. The result in essence is that GAC will become the trustee of the Foundation as well as the manager. GIPL's

role as trustee will disappear. There will be provision on the GAC Board for independent Directors. The reconstituted Advisory Trustee will hold a critical performance review of GAC operations every year. If at any stage they have grounds to believe that GAC is in material breach, grounds for which they have to give reasons, they can appoint someone to review the books. If GAC does not then remedy the breach, a special meeting of the beneficiaries can be called to remove GAC as the trustee.⁹²

A meeting of the newly elected GAC Board in September 2011 may mark an end to this period of turmoil. Because of the importance of the changes being made, and to confirm the endorsement given by the membership at the Annual General Meeting and Extraordinary General Meeting held in April 2011, some of Gumala's most senior Elders attended the Board meeting as observers. One of the decisions of the Board was to expand the number of Directors from nine to twelve, with the appointment of three Elders, one from each of the three language groups (Gumala media release 29 September 2011; www.oric.gov.au). Steve Mav was also reappointed as Chief Executive, in a decision by the Board to consolidate the extensive reforms undertaken in his first term. These reforms were not only structural but very much aimed also at improving services to members.

4.4 Gumala member services

In pursuing the convolutions of Gumala's governance arrangements, it is easy to lose sight of the purpose of the Yandi agreement, which is to provide benefits to members in return for their agreement for mining operations to go ahead. In 2008-2009, as part of the restructure, GAC set up a Members' Services Unit to cater better for individual circumstances. The programs include (Holcombe 2009: 160):

sport and recreation, financial support for funerals and headstones, emergency assistance, a pensioner program, critically ill patient support, health and wellbeing programs, dental and ancillary health, computers for students, a scholarship scheme..., and home loans.

Gumala has also negotiated an agreement with St John's Ambulance WA Inc, whereby GAC pays the annual subscriptions for 2010-2011 for all the registered members, which covers the costs associated in using an Ambulance (www.gumala.com.au). While this does not cover Gumala members living outside WA, GAC has offered to pay membership cover for St John's Ambulance in the relevant State.

Further initiatives were developed in 2010. GAC and Murdoch University, with additional funding from Rio Tinto, signed an agreement for Murdoch University to

⁹² Interview with Chief Executive, Steve Mav, 27 May 2011.

complete a health and education needs analysis of Gumala members and their children. In the 2010-2011 financial year, more than \$11 million was being spent on member's programs, over a 1000% increase in three years from the \$1 million being spent before the restructure.⁹³ A Christmas cash bonus of \$2900 is available for all Gumala members aged 50 or over (Gumala News Summer 2010-11, Autumn 2011). Spending on education in the 2011-2012 financial year is estimated at about \$3 million. Partnership has been established with the University of Melbourne, with its first outcome being the developing of an early childhood centre at the small community of Wakuthuni, near Tom Price, together with an early childhood education and care program. GAC, the Wakuthuni community, and the University of Melbourne, including post-graduate architecture students, worked together throughout. The centre was opened in July 2001 (Gumala News, August 2011). A further component of the Melbourne University partnership is a housing project, with plans for 150 houses in three years. GAC has already bought ten residential lots in South Hedland and seven in Tom Price.

Another service is Gumala radio, which began broadcasting in 2002. It is a fully-licensed community radio station transmitting to surrounding Aboriginal communities. Like other Aboriginal community radio stations, it is a key source of entertainment, cultural and language reinforcement, and information for remote communities. And it is unusual in the Gumala stable of services in that it reaches beyond the Gumala membership to whichever people are in its receiving range.

It appears that, despite the organisational difficulties, there has been a greater orientation over recent years towards delivering benefits to members and ensuring that that will remain firmly in place in the future. The governance and administrative restructure has been pivotal to achieving this, and has undoubtedly increased Gumala's capacity to engage both with its membership and with the broader Australian society (Martin 2009: 109-10). It is arguable, however, that the difficulties have been compounded by the tightly structured arrangements for control and distribution of funds. Smith (2005: 8) argues that

regionalised governance cannot be imposed from the top down. Or rather it can be, but it will not easily be recognised as having legitimacy or credibility.

Gumala is not a fully regionalised body, but its membership of combined language groups gives it some claim to some characteristics of this status. Rio Tinto's concern has been that the financial benefits from the Yandi, and subsequent, agreements should not be squandered and asserts its responsibility to ensure that this does not

⁹³ This amount of funding and grants also relates to an increase in the number of members over the same three-year period, from around 750 in 2008 to nearly 1150 in 2010 (2010 Annual Report).

happen (Litchfield 2009). The Gumala experience, and in particular the recent restructuring of the governance arrangements, suggests that the exercise of this responsibility itself defeated the benign objectives of the agreement by imposing too much control. Such a conclusion is supported by the less stringent, though still prudent, structure for the Ngarluma trust (paper 2). It appears that Rio Tinto has learnt from its experiences. But so, too, has Gumala. It remains to be seen whether it has finally achieved the cultural legitimacy with its members that it has struggled to attain.

4.5 Characteristics of Indigenous governance and representation

In addition to the findings with respect to cultural legitimacy, the research carried out across multiple sites by the Indigenous Community Governance Project suggest that there are other sources of tension that derive from Aboriginal values and practices themselves (Hunt and Smith 2006: 10):

In all the community case studies, we found Indigenous extended families of polity forming the backbone of governance arrangements and especially organisational modes of governance. Not all families are born equal; some are demographically and politically more 'equal' than other families. Some families are larger than others, and some senior family members are more influential sources of authority in community life than others. Senior members of traditional land-owner groups...have particularly powerful rights and interests that permeate all areas of community governance.

Sometimes informal family coalitions and alliances have become evident in the establishment of particular organisations to represent the combined interests of families and communities of identity within a settlement or region. In these ways, familial descent-group identity has become linked to the concept of 'community', and to community organisational governance and forms of political representation. There is thus an extremely influential 'genealogy of governance' which operates in communities and across regions...All the case studies confirm that the familial and genealogical parameters of Indigenous community and regional governance are critical to the success of any policy implementation and capacity development initiatives around governance.

Hunt and Smith continue (2006: 10-11):

Community organisations are enmeshed within the webs of social, ceremonial, political and resource relationships that characterise Indigenous societies. Organisational governance is intimately linked to, and influenced by, Indigenous 'traditional' or 'classical' systems of governance where groups exercise rights, interests and responsibilities that are derived from traditional jurisdictions, laws and customs, recognised codes of behaviour, institutions and shared values. Every case study has highlighted the fact that Indigenous

groups are actively designing contemporary governance arrangements that are informed by their diverse cultural institutions and traditional land-ownership jurisdictions.

I have quoted these research findings at some length because they identify some of the key dilemmas facing Gumala and the basis of some of the ongoing tensions arising from 'distinctive Aboriginal worldviews, beliefs and practices in which connections to country and kin are very significant' (Martin 2009: 101). These tensions manifested themselves quite early, not just within Gumala itself, but also within its component groups. The result was the splitting of two of the groups, Bunjima and Innawonga. In 1997, only a few months after the signing of the Yandi agreement, a group of Innawonga families lodged a separate Gobawarra Minduarrah Yinhawanga (GMY) claim outside the Innawong, Bunjima, Nyiyaparli (IBN) claim area. In 1998, much of the GMY claim area was overlapped by a new Innawonga claim. In 1998 also, the Martu Idja Bunjima (MIB) – the bottom-end or Fortescue Bunjima – lodged a new native title claim that distinguished them from the top-end Bunjima. Their claim overlaps the IBN claim. In 1999, in a move intended by all three claim groups from the beginning, the Nyiyaparli separated their claim area from the IBN claim area and, in 2001, completed negotiations with the now IB claimants to resolve any overlaps.

These new configurations played a role in the negotiations for the BHP Area C agreements. Unlike the single Yandi agreement, there are three separate agreements for Area C: a 2000 agreement with MIB; a 2001 agreement with IBN; and a third agreement with Nyiyaparli claimants in relation to the power-line corridor to the mine. The MIB, as a requirement of the agreement, set up their own Martu Idja Banjyma charitable trust distinct from the IBN trusts. Moreover, the IBN Corporation restricts MIB and GMY members from joining, 'on the basis that GMY and MIB have entered into discrete payments with mining companies, and that they had not shared the benefits with the broader Yinhawangka, Banyjima, and Nyiyaparli coalition' (Scambary 2007: 200).⁹⁴

This tendency towards atomism has been looked at in earlier papers and is described by Sutton (2003: 85):

A tension between atomism and collectivism appears at more than one point in the processes by which Aboriginal and Torres Strait Islander people seek to achieve legal recognition of their title to traditional land and sea areas. Where small landed groups belong to larger congeries, and also may overlap

⁹⁴ The separate GMY agreement was with Robe River over the West Angelas mine. When Rio Tinto acquired Robe River as part of its takeover of North in 2000, they also took over responsibility for this agreement.

considerably in memberships and geographical scope, subgroups may pursue their interests rather atomically unless convinced that their interests are better served by some form of coalition.

The tendency was further manifested in 2009, when one of the smaller corporations under the IBN Corporation umbrella – the Milyuranpa Banjyma corporation – went to the Supreme Court of WA in an attempt to be recognised as a separate group within the IBN Foundation. The Court dismissed the application.⁹⁵ In 2009 also, the Native Title Tribunal undertook mediation with the Bunjima and MIB claim groups with a view to their combining into a single Bunjima claim. At the date of writing, no registered agreement had been reached, and the MIB claim was programmed for trial in June 2011 (Martu Idja Banjyma Charitable Trust Annual Report 2009: 9).

Conversely, there are moves to recombine the Innawonga and GMY claims into a single claim, a move to which both groups have agreed. The other significant change, already agreed to although not yet implemented, is the separation of the Innawonga Bunjima claim into separate Bunjima and Innawonga claims. This change does not reflect a process of atomism but an agreed redefining of the claim areas to meet the exigencies of the native title determination process.

What is significant for the Yandi agreement is that, despite all these changes, members of all three of the original IBN group remain members of Gumala, continue to serve on the Board of Directors, and remain beneficiaries of the Gumala trust. The politics of representation are fraught, but the Gumala experience suggests that they are to some extent being slowly redefined by the native title and particularly by the agreement process. Martin argues the possibility for agreement governance to be transformative, with (2009: 100, 108-109):

possibilities for Aboriginal people to construct their futures through explicitly transformative processes involving engagement with the institutions of the dominant society. Such processes can enable claimants to negotiate ways to have their interests and certain of their rights recognised and aspirations met (including for development), without these having to be refracted through the distorting lens of traditionalism. That is, in contrast to native title claims, agreements are potentially privately resourced and optional projects of modernism.

Gumala may not completely fit this description, nor manage to meet all the expectations of its members, but its longevity – in terms of a collective Aboriginal organisation – suggests that it does meet some of the criteria and has the potential to do so further. Rio Tinto continues its active involvement, some direct, some indirect such as training through ATAL. ATAL training pre-dates and is not confined

⁹⁵ *IBN Corporation Pty Ltd v Banjyma Aboriginal Corporation* [2009] WASC 279.

to implementation of the Yandi agreement, but company employment records provided by ATAL indicate that from 1992–2003, 53 Indigenous apprenticeships had been commenced, and 113 traineeships had been undertaken with a 90% retention rate overall. The same records indicate that graduate employment was 83%, with 72% employed within Rio Tinto (ATAL 2003, cited in Scambary 2007: 104).

This leaves open the question: what role does government play in all this?

5. Recent government approaches to native title agreement-making and benefits

Neither the State nor Federal Governments is a party to the Yandi agreement. Nor, on the basis of the findings of the Taylor and Scambary (2005) study, had either government operated effectively for Aboriginal people in the Pilbara, nor indeed for Pilbara residents more generally, since resource companies began their large-scale operations in the 1960s. Edmunds (1989: 46-47) observes:

When the Western Australian government signed its agreements with the major iron ore companies after 1960....it accepted in principle a contract in which these companies guaranteed a particular level of resource development and made social development entirely dependent on and subsidiary to it. In the Roebourne region, the government maintained its legitimate role of participation in the planning of development infrastructure – the new towns, roads and water supply. What it ceded to the companies was the control of that development and its social consequences.

Commenting on the Taylor and Scambary (2005) findings, Altman (2009: 37) summarises:

The authors found that, despite strong demand for Indigenous labour, there were significant problems on the supply side owing to poor education, health, substance abuse and high interaction with the criminal justice system. Much of this was linked to state neglect over the past 40 years.

The Commonwealth Minister for Families, Housing, Community Services and Indigenous Affairs (FAHCSIA), Jenny Macklin, acknowledged the national application of this situation in her Mabo anniversary speech to the 2010 Native Title Conference (www.jennymacklin.fahcsia.gov.au/speeches/2010/):

All of you here are only too familiar with what's been described as 'the great Australian paradox'. Where the traditional owners of resource-rich land are the most disadvantaged and poorest people living on it. Where the many successful initiatives of Indigenous leaders and organisations co-exist with community dysfunction...This paradox has seen generations of children grow up in appalling poverty, with frightening levels of overcrowding, high arrest

and incarceration rates, disturbing levels of violence, neglect and endemic unemployment.

What we are confronting has been generations in the making. It didn't happen overnight and it won't be fixed overnight...We are addressing decades of under-investment in service, infrastructure and governance by successive governments.

In her speech, the Minister announced a number of measures and proposed measures to address this situation. Much of her focus was on 'the challenges we face in maximising the potential of native title as a platform for long-term Indigenous economic development, now and for generations to come'. She identified two principal areas for reform in order to achieve this: tax and governance.

5.1 Taxation proposals

In May 2010, the government had released a consultation paper, 'Native title, Indigenous economic development and tax'. The paper was the result of several years of discussion after the Australian Tax Office (ATO) had become aware of the level of accumulation in the charitable trusts set up in 2005 as part of the implementation of the Argyle Participation Agreement. The position of the ATO was that the purposes of charitable trusts are for distribution, not accumulation, a position that would run directly counter to the principle of ensuring benefits for future generations.

After preliminary discussion, the Commonwealth Government established a Native Title Payments Working Group in 2008 to advise the Government. The Working Group submitted its report in early 2009. Its recommendations covered provision of information and support for best practice agreement provisions; government investment in developing a pool of 'work-ready' Indigenous Australians who could be employed in the mining and associated industries; favourable tax treatment for model trust deeds that have an intergenerational benefit; changes to the current tax policy on accumulation in charitable trusts; and tax incentives to companies for both financial payments and capacity building. Recommendation 11 sets out that:

Consideration should be given to the provision of full and immediate tax deductibility (on a flow through basis) for expenditure on the establishment of community infrastructure, recognising that industry investment is undertaken in an absence of government investment and where there is significant market failure. Such an approach would recognise that this is essential expenditure, akin to capital works and R&D.

Acceptance by government of such a recommendation would go some way towards addressing the – again national – problem of what has been termed 'substitution funding'. There has been a substantial literature on this issue for more than two decades, but it is summarised by Altman and Jordan (2008: 3) as:

substitutes for essential programs received by most Australians as citizenship entitlements...Communities can be forced to rely on payments from mining companies to provide basic services and utilities, rather than such payments being viewed as private and compensatory and hence to be utilised at the discretion of recipients in areas affected by mining.

In the Pilbara, the major resource companies all provide infrastructure support – grading of roads, water tanks, bores, cyclone cleanup, sometimes electricity – especially to Aboriginal communities on homelands or outstations. In the past, the pipeline or mine roads were the main or only access to small communities like Ngurawaana, some 130 kilometres from Roebourne in the Millstream/Chichester National Park.⁹⁶ The introduction of Royalties for Regions and the provision of funding for some approved projects, such as the assessment of options for providing potable water to the 5 Mile (Mingullathando) settlement near Roebourne, offers some supplementary funding but is unlikely to replace the assistance that Aboriginal communities have come to expect from resource companies, and that resource companies are in general willing to continue.

The Commonwealth Government reissued its consultation paper on Native Title, Indigenous economic development and tax in October 2010, this time with the Department of the Treasury as the lead government department. The paper canvasses a number of options, none of which take up recommendation 11, or indeed a number of other recommendations, of the Native Title Payments Working Group report. Instead, it outlines a number of other possibilities. These include income tax exemption for native title agreements; a new kind of entity referred to as an Indigenous Community Fund; and a native title withholding tax. The latter (October 2010: 14):

would require parties who make payments for the suspension of native title rights and interests to withhold an amount of tax (4 per cent was the rate proposed) and pass it to the ATO before the payment goes to the native title holders. The rest of the payment would then be income tax exempt if on-distributed to the native title holders or their representative body.

⁹⁶ The term is applied not only to resource company activities. Altman and Jordan point out that 'from 1990 to 2004 ATSIC-funded organisations were often expected to administer the programs of other agencies'. They also identify CDEP organisations as being required 'to provide infrastructure and services in the absence of any other provider...allowing all levels of government to renege on their responsibilities to fund infrastructure and services in Aboriginal communities'. A classic CDEP service in many remote Aboriginal communities has been garbage collection. In light of this situation, another effect of the abolition of CDEP wage provision will be the winding back of these services unless there is clear government provision, including adequate funding, to take over these activities.

In its submission in response to the paper, the IBN Corporation, in addition to its comments on the limitations of charitable trusts, put forward a view that reflects a view very widely-held among Pilbara Aboriginal people, that is that (2010: 5):

Whilst protection of capital for future generations is important, freeing the current generation of Traditional Owners from poverty and financial destitution is more critical and Government needs to work with Traditional Owners to liberate funds and assist them in achieving their own economic independence and thereby bridging the gap with non-indigenous Australians.

The submission also agrees that taxation reform of native title payments is long overdue, and ranks the three key proposals with income tax exemption as the highest and a new tax exempt vehicle such as an Indigenous Community Fund as the lowest.

The Gumala submission likewise supports the option that ‘all native title payments should be tax exempt in the hands of traditional owners’ (2010: 7) and emphasises the need for changes that encourage and facilitate ‘the transition of traditional owners from welfare dependence to economic independence’ (2010: 17). It is silent on the subject of the withholding tax, but draws Canadian and United States tax regimes for Indigenous people to the government’s attention.

Yamatji Marlpa Aboriginal Corporation, the Native Title Representative Body that includes the Pilbara, supports the exemption of native title benefits from income tax; sees the greater flexibility offered by an Indigenous Community Fund as potentially useful; and is likewise silent on the subject of the withholding tax.

Not surprisingly, BHP Billiton supports neither the proposal for a general tax exemption nor a withholding tax regime, though it does support the proposal for a new entity such as the Indigenous Community Fund (2010: 1, 3).

More surprisingly, there is a joint submission from the Minerals Council of Australia and the National Native Title Council, suggesting a new level in the concept of partnership that is such a consistent theme in discussions and recommendations about closing the gap. The joint submission makes clear that ‘the overall principle applied by the MCA and NNTC in developing policy in this area [is] that payments related to native title should be tax-exempt’ (2010: 13) and does not support the withholding tax. The submission goes on to elaborate an alternative model to the Indigenous Community Fund; this is the Indigenous Community Development Corporation. As the proposal has regional implications, it will be dealt with in another paper (paper 5).

At the time of writing this paper, no further public action has been taken by the Commonwealth on possible changes. An issue that is not tackled in either the consultation paper, or in the submissions, is the lack of any funding support for native title Prescribed Bodies Corporate (PBCs), the bodies set up to hold native

title after a determination. PBCs get a passing mention as part of the example offered in the Government's consultation paper (October 2010: 16) and greater support for Native Title Representative Bodies to assist native title claimants is argued in Representative Body submissions, such as that from Yamatji Marlpa Aboriginal Corporation. The practical effect for native title groups is that, once native title is recognised, the group is effectively on its own. This is already the situation for the Ngarluma and Yindjibarndi PBCs. In view of the growing number of native title determinations in the Pilbara, possibly including the Gumala members, this remains an issue of significance.

5.2 Governance proposals

The second area of proposed policy change for native title agreements⁹⁷ identified by the Minister in her Mabo speech is the issue of governance. The Government raised some consultation questions in a discussion paper, 'Leading practice agreements: maximising outcomes from native title benefits', in July 2010. The paper sets out the principle on which the Government relies, that is, that 'native title, particularly agreement-making, can play an important role in helping to close the gap between Indigenous and non-Indigenous Australians' (2010: 4). Along with a practical proposal for Government to develop a 'leading practice toolkit' and suggestions about streamlining the Indigenous Land Use Agreement processes and clarifying good faith negotiations that would require amendments to the *Native Title Act*, the paper's main proposal is the establishment of a new statutory function to receive, review, and register native title agreements. The function could be carried out by a new body, or possibly by an existing body such as the Office of Indigenous Corporations (ORIC).

This proposal is a pale reflection of the recommendation made, on the basis of extensive research, by the Indigenous Community Governance Project for the establishment of an Australian Indigenous Governance Institute (Hunt and Smith 2007: xvi). The emphasis in this recommendation is a basic shift in approach from review and compliance to capacity building and support. An Australian Indigenous Governance Institute would fill the current gap in effective support for Indigenous governance structures and in sustained governance advice; training; oversee legal requirements; and disseminate best practice. This would be a broader role than ORIC's and address governance issues in the establishment, rather than subsequent compliance, of corporations.

Reconciliation Australia, which was a partner in the Indigenous Community Governance Project, points out to the Commonwealth Government that a fledgling

⁹⁷ It is worth noting comprehensive government use of the rhetoric of 'reform' when what is actually meant is 'change'. The use of 'reform' often masks what is simply policy turbulence.

Australian Indigenous Governance Institute has been established and is in a developmental phase. They recommend that government investigates the possibility of supporting the new body as a Centre of Excellence in practice and research for Indigenous governance. The submission also points out that Reconciliation Australia, in partnership with BHP Billiton, has already developed an Indigenous Governance Toolkit as an online training resource for Indigenous organisations (2010: 5-6). This would seem to preclude the proposed usefulness of government duplicating such a resource.

The Government's discussion paper fails to acknowledge the enormous pressure that has been placed on Indigenous organisations, not just in the Pilbara, but everywhere, by the dizzying changes in policy in the last six years with their insatiable demands for ever-changing implementation and compliance.

For Indigenous communities and their organisations, the state does not exist 'up there', at a disembodied remove from them. The sovereign governing power of the state is plain for Indigenous people to see on a daily basis. They experience it in the form of visiting public servants, the ever-changing rules of service delivery and funding, the deluge of information gathering by governments, and the burdensome routine of meetings and consultations (Smith 2008: 80).

The paper also holds some potential stings: ones that are contrary to any serious input from Indigenous groups. One is that Government mandate the adoption of particular governance measures and leading practice principles by bodies that receive native title payments. Another relates to the consultation matters raised in the tax paper, that 'any new tax treatment implemented in response to consultations on the Treasury Paper [be] conditional on entities that receive native title payments adopting the governance measures and leading practice principles' (2010: 7). Eligibility of organisations for treatment under any new tax measures would be assessed as part of the flagged 'review function'. Without in any way minimising the importance of good governance in Indigenous organisations, these possible measures seem more punitive than facilitating, and designed to undermine rather than support the capacity of Indigenous groups to manage their affairs appropriately. They are a return to the coercive rather than collaborative approach by government and are more likely to undermine rather than assist the development of good Aboriginal governance.⁹⁸

⁹⁸ Some perspective on how the government is approaching these proposals is perhaps to be found if they are seen in the broader perspective of disputes arising over the operation of trusts. In 2011, for example, three children of Australia's richest person, Gina Rienhart, have gone to the NSW Supreme Court to have their mother removed as head of the family

5.3 Policy turbulence

There is one further observation, perhaps a footnote, pertinent to the Commonwealth Government's development of native title agreements policy. In 2008, the Council of Australian Government's (COAG's) Native Title Ministers established a Joint Working Group on Indigenous Land Settlements. The aim of the Joint Working Group was to 'develop innovative policy options for progressing broader and regional land settlements' (Joint Working Group on Indigenous Land Settlements Terms of Reference 2009-2010). The Government's 'Leading practice agreements' discussion paper refers to a workshop convened in April 2010 by the Joint Working Group and stated that the discussion paper 'constitutes the Government's initial response to the JWILS 2009-10 terms of reference and its response to the report of the Native Title Payments Working Group' (2010: 5).

In February 2011, COAG issued a communiqué announcing a 'comprehensive reform plan for a new system of Ministerial Councils' (13 February 2011: 4). The changes were to take place from 30 June 2011. In the new COAG Council System, the Ministerial Council for Aboriginal and Torres Strait Islander Affairs disappears. In its place, there is a COAG Working Group on 'Indigenous reform', one of three Working Groups. It appears that the Joint Working Group on Indigenous Land Settlements has survived for the moment, but it remains unclear what its role is or will be, or what might happen to the recommendations arising from its April 2010 workshop. Its future direction, and the possibility of a revision of its terms of reference, are under consideration.⁹⁹

6. Gumala's ongoing role

In the midst of government policy consultations, changes, turbulence, of vertiginous levels of resource development, and of its own often volatile internal and member group interactions, Gumala keeps on keeping on. Its recent restructure has been extensive in an attempt to improve its own governance and to meet some of the structural problems, such as the relationship between GAC and GIPL, that have threatened to obstruct or derail the implementation of the Yandi agreement.

The restructure has also been an attempt to resolve problems that arose over time with the third body established by the Yandi agreement, Gumala Enterprises Pty Ltd (GEPL). GEPL was set up to be the business arm of Gumala and is wholly owned by GAC. It receives some funding from the Foundation but is separately managed with a Board made up of seven members: three independent members, one Director from

trust (*The Australian* 8-9 October, 2011). An application by Mrs Rinehart for a suppression order for the case to be heard in camera was rejected by the court.

⁹⁹ Note from Attorney-General's Strategic Policy section, 25 May 2011.

each of the Gumala three native title groups and GAC's chief executive. This was not always the case. Early tension emerged between GEPL and GIPL with the refusal of GIPL to release funds for the recruitment of a general manager (Scambary 2007: 200).

As part of the broader restructure, a new GEPL Board of Directors was put in place in 2008-2009 and GAC's chief executive was appointed as GEPL's Managing Director, (GAC Annual Report 2008-2009: 9), providing a more integrated relationship between the two bodies (Holcombe 2009: 160).

GEPL has developed three divisions. The first of these, established in 1997, was Gumala Contracting, which is wholly owned and managed by GEPL. This was set up as a joint venture earthworks contracting business with Hamersley Iron (Scambary 2007: 199) but now operates independently, though often as a contractor to Rio Tinto Iron Ore. In early 2009, the company was a finalist in the Rio Tinto Supplier Recognition Awards (www.gumala.com.au).

GEPL's second division ESS Gumala, is a joint venture with Compass Group Australia that provides catering, cleaning, management and other mine site hospitality services to mining companies around the Pilbara. ESS Gumala manages, to take just one example, the old Hamersley Iron workers' accommodation, now Rocklea Palms motel, in Paraburdoo. The company has a 40% interest in the joint venture, which is now recognised as the third largest catering company in the state (<http://geplcomau.melbourneitwebsites.com>). The joint venture agreement was renewed in 2009 after twelve years of operation.

The third, and newest, GEPL division is Gumala Tourism. At present, this is confined to the Karijini Eco Retreat, but that's a grand confinement. Previously the Savannah Campground in Karijini National Park, GEPL worked with the former Department of Conservation and Land Management (CALM) to develop it into the Eco Retreat. This opened in 2007. In 2010, Brendon Grylls, Minister for Regional Development, announced a \$1 million grant through the Royalties for Regions program, as part of the Pilbara Revitalisation Plan phase 2. It is planned to build an education and cultural amphitheatre and related facilities, a project dear to the heart of the traditional owners.

Building on its experience and making use of its three divisions, GEPL is well placed to exploit business opportunities offered by the current resource development. If the Pilbara Cities program goes ahead, with Tom Price as a 'major town' and Paraburdoo as a 'town' there will be a construction bonanza.

A continuing challenge is the level of Aboriginal employment across all of GEPL's projects. In 2009, for example, there was only one Aboriginal employee at the Karijini Eco Lodge. Many of the others were backpackers: Irish, French, German. The situation is changing. In 2011, five Gumala members – the 'Karijini girls' – were

working as staff at the new Visitor's Centre to welcome visitors and provide information. One of them, Margie Hughes, has been working in the Park for over fourteen years and had already won three Department of Environment and Conservation awards (Gumala News, August 2011).

Through GEPL's contracts, Gumala investments, and the possibilities opening up through Karijini Eco Retreat and tourism more generally, Gumala is beginning to diversify its sources of income. This is likely to be a major feature in allowing it to move away from reliance on a single source of income through the Yandi agreement, therefore providing sustainability in continuing its services to members and the possibility of greater durability as a result. The organisation is also starting to work more actively with other Aboriginal organisations, though it has tended to focus more on its own issues than in developing such networked links. However, it is currently working with Ashburton Aboriginal Corporation on training programs and is listed as a Registered Training Organisation. The Chair of Ashburton Aboriginal Corporation, Doreen James, is also one of the Elders appointed to the Gumala Board in the expansion of the number of Directors from nine to twelve in September 2011, suggesting a reinforcing of that link.

It would appear, therefore, that, despite the problems that Gumala has faced since its establishment, including the pressure towards fission from its own members, the organisation has managed to meet the two connected criteria that the Indigenous Community Governance Project identified as essential for cultural legitimacy (Hunt and Smith 2007; paper 1).

At the same time, the Indigenous Community Governance Project makes clear that (2007: xv):

legitimacy is not static. Project research indicates that it is imperative that reforms to governance should arise out of strengthening Indigenous capacity to develop legitimacy, and be controlled by Indigenous people themselves.

The current amendments to the Yandi agreement and to its governance structures have moved Gumala towards greater control by its members in the context of those members now having engaged in related participatory and governance processes for nearly fifteen years. Their experience has had its pitfalls, both internally and externally, but it appears that the organisational structures are now sufficiently robust to be able to deal adequately with decision-making and conflict, containing it within the appropriate internal space while the organisation continues to get on with business.

7. Conclusions

Gumala is clearly a very different organisation from the early Pilbara Aboriginal companies like Northern Development and Mining (Nodom), Pindan, and Nomads. Nor is it quite the 'carapace' conceived by Rowley. But its history does show some of

the same characteristics, 'working out the changing standards of a new social order'; and that, 'within the legal framework of a registered company, it is possible to come to terms with the hard facts of the local economy' (1972: 255). In that sense, Gumala does appear to match the criterion of an Aboriginal organisation as a 'point of articulation' between both traditional and contemporary Aboriginal values and practices on the one hand and the demands of the broader society on the other. The space that it provides for self-determination, through the Yandi agreement process and subsequently, may be limited, but its creation was effected by the three native title groups themselves and proved a successful vehicle for the conduct of the negotiations.

This raises the question about how success is measured, especially through the agreement implementation process. One measure is the external one of meeting corporation and accountability criteria. More important in terms of sustainability is whether the organisation retains cultural legitimacy. To date Gumala, sometimes shakily, has done so. In terms of the current resource ramp up, it is in a position to take advantage of opportunities but remains, as an organisation, to some extent buffered from the worst impacts because its existence is tied to the fortunes of a particular mining project. This is not true of its constituent members whose country, like that of the Nyiyaparli in particular, is subject to major mine planning. It may be that the real test of Gumala's organisational strength, whether as carapace or intercultural domain, is yet to come.

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14. Connections, continuities, and change - Martu and their country.

Dr Mary Edmunds

I was born at Kunawarritji [Well 33]. My father was born at Kinyu [Jarntu, well 35]...Kinyu belongs to many people: from the west, from the east, from the north and from the south. These people come from all over...This Country is for a lot of people.

Roley Williams, in *Yintakaja Lampajuya* [these are our waterholes], 1988, pp180-184.¹⁰⁰

1. Introduction

In 2007, artists from six of the nine Western Desert art centres came together on the first bush trip of what became the Canning Stock Route project, *Yiwarra Kuju* (one road). More than seventy people camped at Kilykily (Well 36) in Martu country. On different visits over the next three years, people told stories, painted, filmed, took photographs, recorded; and through these activities – another form of caring for country – revisited and reaffirmed the family and cultural networks that link the more than fifteen language groups that live across the region (National Museum of Australia 2010: 15):

The term *Ngurra kuju walyja*, which translates literally as ‘Country one family’, describes not only the extraordinary degree to which people are related across the Canning Stock Route country, but also the pivotal relationship between people and the Country itself. Although specific families ‘belong to’, and maintain rights of ownership over, particular areas of Country, these areas are themselves related and interlinked through a matrix of Dreaming tracks or songlines, which trace the creation journeys of ancestral beings.

These connections are not confined to the desert but run east and south, and further west to the coast. The Seven Sisters’ (Pleiades) journey, for example – *Minyipuru Jukurrpa* for Martu people – begins near Roebourne and many of the sites on their travels are now wells on the Canning Stock Route (2010: 53). Some Roebourne artists, for example Bunjima woman Janine Samson, also have the right to paint this story. The *Yiwarra Kuju* project was complemented by a sister project: the Rock Art

¹⁰⁰ Quoted in National Museum of Australia 2010 *Yiwarra Kuju, The Canning Stock Route*, p81.

and Jukurrpa Australian Research Council linkage project (www.csr.anu.edu.au/), carried out over four years from 2007

Both Canning Stock Route projects enlivened other connections: across generations, across new and different media and forms of representation, and between the Aboriginal and non-Aboriginal participants and their respective roles in relation to each other as the kind of partnership relation constantly emphasised by Aboriginal people. The project also traced ‘the movements, both human and artistic, that define the changing social landscape of the Western Desert in the twentieth century’ (2010: 197).

The history of the Martu themselves is part of the Western Desert’s ‘changing social landscape in the twentieth century’. For many of their old people, first contact with non-Aboriginal people (*kartiya*) has occurred within their lifetimes (Davenport, Johnson, and Yuwali 2010). The history of the Martu, then, illustrates vividly and immediately the consequences of contact, the impact of shifting government policies, and the various ways in which Martu people have acted and responded.

2. Background

2.1 The emergence of Martu

The name ‘Martu’, or Martujarra, is itself a result of those changes. The term has developed as a post-contact collective to include a number of diverse but related desert language groups (www.wdlac.com.au).¹⁰¹ It is language based and means ‘one of us’ or ‘person’. The largest of these language groups are Manyjilyjarra and Kartujarra, but ‘Martu’ also includes some ten other language groups or linguistic units (Tonkinson 1974: 43; 1989: 107). Martu Wangka is the language that has developed from a combination of these languages.

When the Western Desert language group communities moved in to Jigalong in the mid 20th century, members of the Kartujarra and Manyjilyjarra language groups lived side by side with other groups and Martu Wangka developed. The Martu Wangka language combines elements of Manyjilyjarra and Kartujarra with some Putijarra, Warnman and Nyiyaparli (www.wangkamaya.org.au).

At the same time, the languages already had enough in common to be classified as dialects. ‘The existence of...many dialects does not detract from the unity of the group’ (Federal Court of Australia 2002: para. 9).

¹⁰¹ Anthropologist Robert Tonkinson, who has worked with Martu people since 1963, coined the collective term ‘Mardudjara’ (Martujarra) for ‘the people who lived in a wide area surrounding Lake Disappointment’ (Tonkinson 1989: 99-100).

Correlated with the physiographic and climatic commonalities of the Western Desert are its uniformities as a cultural bloc. Its Aboriginal inhabitants speak a common language with dialectical variations and share a similar basic social organization, relationship to the natural environment, religion, mythology, and artistic expression...The linguistic unit was a larger and more readily defined social unit, named for the dialect spoken by its members and composed of several contiguous local groups interrelated by marriage. Normally, such a unit occupied a specific area, with known but not precisely defined borders (Tonkinson 1974: 16, 17-18).

The desert environment and the variability of rainfall and access to water and food resources reinforced the cultural permeability of boundaries between groups and the high levels of mobility both within and, importantly, across known and acknowledged territorial units. Contact between groups was essential both for physical survival and for the maintenance of defined but interconnected religious and cultural responsibilities.

This same desert environment and variability of rainfall also served to delay contact between the Martu and European settlers. The latter were slow to tackle what they judged to be a harsh and hostile landscape. Even exploration was undertaken only at the end of the nineteenth century, with both the Calvert expedition, two of whose members died (Gallagher 1989: 143), and Frank Hann venturing into the region in 1896. Hann left a legacy of European naming. In the east Pilbara, his journey brought him to Karlamilyi, a unique area in the Western Desert,

being a major watercourse that contains reliable water sources, some of which can be safely classed as permanent. This attribute, plus the abundance of wildlife attracted to the watercourse and its environs, must have made it appear like a veritable oasis to the dwellers of the desert proper, so it is little wonder that the River region was well known to groups from over a wide area – both for its mythological origins, as a creation of the major creative beings, the Two Men (Wati Kujarra), and its significance as a food and water resource, especially in bad times (Tonkinson 1989: 108-09).

Hann called it the Rudall River, after surveyor William Frederick Rudall. He also came across Kumpupirntily, a vast dry salt lake that, for Aboriginal people, is ‘one of the most dangerous areas in the Western Desert, [as] home to cannibal beings known as Ngayurnangalku’ (National Museum of Australia 2010: 61). Hann was looking for a fresh water lake. He expressed his feelings at what he found instead by naming the salt lake ‘Lake Disappointment’.

In the early years of the twentieth century, small outposts – pastoral stations, mining settlements, railheads, and missions – were founded along the desert periphery and attracted small numbers of Martu and other Aboriginal groups,

mainly as temporary visitors although some as immigrants (Tonkinson 1974: 23).
The first

substantial encounter in the desert was brought by the conjunction of the economic aspirations of East Kimberley cattle producers and the political expediency of a government in Perth vulnerable to pressure from producers in the North-West and consumers of beef in the south (Gallagher 1989: 142).

This was the expedition led by Alfred Canning in 1906-07 that established the Canning Stock Route.

The establishment of Jigalong on the western edge of the Gibson Desert was another direct effect of policy. Jigalong was set up as a small depot for the maintenance of the rabbit proof fence when this was completed, also in 1907. It was also a camel-breeding centre until the 1930s. The depot attracted some local Aboriginal people, but it was in the 1930s that desert people began to live there (Tonkinson 1974: 29-30);¹⁰² in the twenty years after World War II that many finally settled (Gallagher 1989: 153); and not until 1964 that the last groups were brought in from the desert. One was a group of eight – one man, two women, two young men, and three children who were met at Well 31 (Gallagher 1989: 155). The other was a group of twenty Martu women and children, encountered near the Percival Lakes by two patrol officers. Welfare patrols had been sent out to ensure that no Aboriginal people would be in the area that would be affected by the British Blue Streak rocket's first flight test in 1964 (Davenport *et.al* 2010; *Contact* 2010; www.nationalarchives.gov.uk/films/1951to1964/filmpage_rocket.htm).

The Blue Streak rocket program began in Australia – at Emu Field and Maralinga in South Australia, and the Monte Bello islands off the Pilbara coast – in the 1950s. It was enthusiastically embraced by the Federal government, or at least by the then Prime Minister, Robert Menzies, who made 'the secret and swift decision to allow Britain to test its nuclear weapons in Australia...without consulting his cabinet colleagues'. After the first atomic bomb test on land at Emu Field in 1953, he declared in response to a parliamentary question: 'It has been stated most authoritatively that no conceivable injury to life, limb, or property could emerge from the test' (Milliken 1986: 57-58). For desert Aboriginal people, including the Martu, isolation in this instance was not a protection.

2.2 Martu responses to contact

Nevertheless, the movement of Martu into settlements and towns was not all push. There were also pull factors as people made exploratory forays into the possibilities

¹⁰² In the years before his 1906 stock route expedition, Canning had also been involved in surveying the rabbit-proof fence (National Museum of Australia 2010: 33).

offered by these curious newcomers to their country.¹⁰³ In the 'Martu Mediation Report' prepared by Tonkinson for the Martu native title claim, he writes that Martu people 'rapidly acquired a strong desire for tea, flour, strong tobacco and sugar; as several Martu have described it, "We were captured by flour and sugar" ' (cited in Shanks 2011: 74).

Many of the stories about contact show how ready Aborigines were to incorporate the evidence of another world into their own. This is particularly true in the case of food...In the early [nineteen] sixties when Len Beadell, the great desert track maker, gave people apples and oranges they naturally tried to cook them first. Baked apple was deemed a success, but the orange did not cook well at all (Gallagher 1989: 153, reporting an account from Martu man, Mack Gardiner).

Another account related to the unusual composition of the group, made up of only women and children, that walked in from the desert in 1964 (Gallagher 1989: 155). Some years before, the men had come in to Jigalong to check it out for themselves. They found it so appealing that they stayed, and never returned to their families.¹⁰⁴

Despite these changes, and 'the gradual migration of Western Desert People from the desert heartland to the fringes as a consequence of the spread of European settlement,...there was no serious cultural break with their traditional roots' (Federal Court 2002: para. 8). Central to these 'traditional roots' is the Martu understanding of place, one that they share with other desert Aboriginal people. Carty (2010: 30-31) describes this in relation to the Canning Stock Route:

For Aboriginal people, the creation of the stock route, the sinking of the wells, the coming of the drovers did not happen in time, as we commonly think of it, but in place. Events do not just happen in the desert; they happen *here* or *there*, in the places – Ngurra, or Country – that people paint...In this place-based view of the world, stories from the *Jukurrpa*, from family, from colonial history and from personal experience, are all layered in the sites where they happened. Country is a kind of memory.

The personal contact experience for some Martu, as for other Pilbara Aboriginal groups, involved life on stations; for Martu, on desert fringe stations like Talawana and Balfour Downs that had been established by the early 1900s. The stations 'are

¹⁰³ This kind of initial engagement was not exclusive to the Martu. A number of recent novelists have re-imagined early contact in different parts of the continent. Kim Scott has done this for the south of Western Australia in the novel that won the 2011 Miles Franklin Literary Award, *That Deadman Dance*.

¹⁰⁴ Pers. comm. at Jigalong to Edmunds in 1997.

close to a major waterhole route from the desert to Jigalong and have served as staging places for Aborigines moving westward' (Tonkinson 1974: 32). In addition, they supported small groups of Aboriginal workers.

Some of the Martu station workers took part in the Pilbara Aboriginal pastoral strike in 1946 (see paper 3). Some of those with legitimate rights to speak for the Karlamilyi (Rudall) area, remained with the Nomads after 'The Split' within the strikers' group in the 1960s (see paper 1) and spent the next decade moving between Jigalong and Strelley Station. In 1981, a further separation took place, with some of the Strelley Warnman and Manyjilyjarra people returning to country and setting up what is now the Punmu community. In 1983, Punmu formally broke ties with the Strelley organisation (Lawrence 1989: 7-8).

The disputes that emerged over time within the strikers' group were not a single conflict but arose from a range of different views and priorities. Some were part of internal group tensions. Others were exacerbated by government actions and evanescent policies that promised but failed to deliver greater recognition of traditional ownership of country.

2.3 Impacts of government actions and policies before New Public Management

A central focus of the present remoteFOCUS project is on the consequences of the introduction of New Public Management changes, but some of its key characteristics were evident in Aboriginal affairs long before the 1980s. Among these were the institutional asymmetry associated with governance deficits and mis-alignments; policy turbulence; and the imbalance between the local and the general. Martu, like Aboriginal people elsewhere, but also other people in remote Australia, had little say in the decisions that affected them (remoteFOCUS presentation to Karratha Business Forum, 25th February, 2011).

For Martu people, the decisions that most affected them related to country.

In a little publicised move, the Karlamilyi (Rudall River) National Park was gazetted in May of 1977. Significantly, no consultation on this decision was ever undertaken with Aboriginal people who maintain traditional ties to the country in question. It was not until the Seaman inquiry on Land Rights in 1984-85 that the traditional owners of the Karlamilyi (Rudall River) region even learned that a vast area of the Western Desert was no longer Vacant Crown Land (Lawrence 1989: 7).

The longer term consequences of this gazettal for formal recognition of Martu traditional ownership of the area only became clear at the time of the Martu native title determination in 2002 (see below).

Also without consultation with Martu, the State Minister announced an Exclusion Zone over an area of the park in 1987, declaring an indefinite ban on mineral exploration (Lawrence 1989: 4, 32). Unlike the vesting of the national park, the basis for the Exclusion Zone was

delightfully simple. The Ministers for Mines, CALM [Conservation and Land Management], and Aboriginal Affairs made an administrative decision in October 1987 that no exploration or mining would be permitted within the EZ, unless or until otherwise determined by the Government (Cotton 1989: 44).

In between these two events, as a result of an election promise, the new Labor State government had established an Inquiry on Aboriginal Land Rights in March 1983, to be carried out by Paul Seaman. He began his work in September. For two years, Aboriginal people and their representatives, as well as Seaman and his staff, worked assiduously to achieve land rights for Aboriginal people in Western Australia. The efforts came to nothing. The proposed legislation was defeated in the State's upper house, the Legislative Assembly, in April 1985. But by that time, the politics of both State and Federal Labor governments had led to the collapse of support for land rights, whether in Western Australia or nationally. Martu, like other Aboriginal groups all over the State, had engaged with the Inquiry in good faith. 'The cruel irony...was that it raised expectations that were to be utterly destroyed in twelve months time' (Lawrence 198: 9).

2.4 Migration and residence

Despite the vagaries of government, Martu presence on country was well re-established by the mid-1980s. The communities where a significant number of Martu Wangka speakers live are Jigalong, Parnngurr (Cotton Creek), Punmu, and Kunawarritji (Well 33). Others have settled in Newman and Nullagine. Martu people have also moved to other towns and communities in the Pilbara, including Port Hedland, Warralong, and Strelley (www.wangkamaya.org.au).

Jigalong is on Aboriginal Trust Land and was legally incorporated as an Aboriginal community in 1973. It is in Nyiyaparli territory but children born there inherit their affiliation from their Martu parents (Tonkinson 1974: 43) and Martu have responsibility as its caretakers. The Jigalong population is currently around 300-400 people in the dry season and 450 in the wet season, although the latter number can fluctuate markedly during Law business time. It remains a closed community and a permit for entry is required.

Punmu, with a population of approximately 120, is within the Karlamilyi National Park, and Parnngurr, with around 100 people, on the edge. Kunawarritji, also with around 100 people, is on the Canning Stock Route.

The Newman area is in the Nyiyaparli native title claim but, as with Jigalong, the Nyiyaparli people recognise Martu as its custodians (Shanks 2011: 13). Parnpajinya,

outside the main town of Newman and on the opposite side of the highway, is one of four Pilbara Town-Based Reserves. It has twelve dwellings and approximately 60 residents (Department of Indigenous Affairs 2011: 6). Parnpajinya also dates from the early 1980s, 'when Martu people settled on an area of land which had long been a significant Martu site' (2011: 11; 74-75).

With some security of tenure for Aboriginal interests [Parnpajinya is Aboriginal Land Trust reserve], an effort was made to provide basic infrastructure and services by some of the key stakeholders; Aboriginal Affairs Planning Authority (AAPA), BHP Iron Ore, Homeswest – Aboriginal Housing Board, the East Pilbara Shire and other government agencies to a lesser extent. It would appear from earlier documentation that there was never any intention that the site become permanent and this is reflected in the very basic accommodation and communal ablution facilities that were constructed during the 1990s. These ranged from ELA (canvas) shelters, single room mud-brick houses, tin shacks, pit toilets, a large work shed and later, a larger rammed earth home was constructed at the northern end of the site. A Community Coordinator and Aboriginal Liaison Officer were funded by AAPA to help in the coordination of Government agency services to the community. Despite these efforts the residents continued to reside in squalid conditions and face many social problems, many of which were, and still remain, alcohol related.

Newman itself currently has a population of approximately 7000 people of whom around 700 are estimated to be Aboriginal (2011: 11, 12). The town is also a centre for visiting Aboriginal people from remote communities. A DIA survey of visitors in 2009 found that 41% of visitors were from Jigalong, while others were mainly from the remaining Western Desert communities. 69% of people said they came to town regularly, with 100% staying 1-4 weeks. 77% stayed with family or friends, 16% camped, and only 7% paid for accommodation. Of the reasons for being in town, 100% stated shopping and socialising, with 75% of the socialising responses including wanting to drink. Further DIA information from 2010 showed that 'the visitors were mainly men in the 20-40 age group who were very candid in their responses of coming to town to drink and return to their community to "dry out", then return for another session of binge drinking' (2011: 7).

The attraction of Newman and other Pilbara towns as providing access to alcohol arises from the situation that the Martu remote communities are dry communities. Restrictions were introduced into Jigalong in 2009 and have been extended until April 2014. Kunawarritji is also dry, but is to have a special tourist condition because of its location on the increasingly popular Canning Stock Route (www.wa.gov.au, Minister for Sport and Recreation; Racing and Gaming media release, 13 May 2011). Even Parnpajinya 'requested and received assistance through the DIA and police to institute community by-laws outlawing the supply and

consumption of alcohol' in 2006 (Shanks 2011: 35). The voluntary initiation by communities of these restrictions is evidence of Martu people acting, or at least attempting to act, to take control over the conditions of contemporary life, in this instance, conditions associated with modernity. Their recent history demonstrates even more clearly the concern for continuing control over their responsibilities for their traditional country.

3. Martu action and response

3.1 Native title

While the Commonwealth Parliament was debating the *Native Title Act 1993*, the Western Australian Parliament passed the *Land (Titles and Traditional Usage) Act* which commenced on 2 December 1993. The majority of the provisions of the Commonwealth legislation did not commence until 1 January 1994 (Norberry 1995: 1-2).

The Western Australian Act purported to extinguish any native title in Western Australia and replace it with more limited statutory rights to traditional usage of land. The Act purported to validate past grants of title. It also provided for limited rights to compensation for extinguishment of those statutory rights and for the effects of validation.

The Martu were one of two Western Australian Aboriginal groups to challenge the State legislation (*Teddy Biljabu & Ors v. The State of Western Australia*).¹⁰⁵ The challenge was successful. Among other things, the High Court found that

the Western Australian Act discriminated against the plaintiffs in relation to their rights to land [and] was inconsistent with the *Racial Discrimination Act 1975*...in that it provided inferior security of title to native title holders in comparison with that enjoyed by other holders of land title in Australia...The Court found that native title had not been extinguished in Western Australia (1995: 2).

Following the win in the High Court, the Martu lodged their native title application in 1996. Then Justice French referred to this moment when he made the Martu native title determination at Parnngurr in September 2002 (Federal Court of Australia 2002: para. 7):

¹⁰⁵ *The State of Western Australia v. The Commonwealth, The Wororra Peoples and Anor v. The State Of Western Australia, Teddy Biljabu and Ors v. The State Of Western Australia* (1995) 183 CLR 373 (16 March 1995).

Thirty of the Martu people travelled by road from the Western Desert and Eastern Pilbara in June 1996 to deliver their application to the main registry of the National Native Title Tribunal in Perth. They also presented the Tribunal with sand from their country, on the understanding that it was to be returned when a determination of their native title was made. As the report asserts: 'This symbolic gesture was demonstration of the claimants' strongly-held belief in their ownership of their traditional territories'. After making the determination I propose to make today..., I will invite Mr Graeme Neate, the President of the National Native Title Tribunal, to return the sand to the Martu People in a Piti or traditional wooden dish.

The determination, and the mediation process that preceded it, marked a number of significant developments over the intervening six years. One was the resolution, after forty years, of the rift that had followed the Pilbara Aboriginal workers' pastoral strike (discussed in papers 1 and 3) and that had led to the Nomads group lodging a claim that overlapped the Martu application. The Nomads overlapping claim, however, was only one of eight initial overlapping claims. Seven of these were resolved through the Native Title Tribunal mediation process, with all those involved finally represented on the single successful Martu claim. The eighth, a partial overlap with the Ngurrara claim to the north, was acknowledged in the determination as a shared area between the two groups (2002: para. 11).

The unexpected blow for Martu people was that the determination excluded the Rudall River National Park: 'our soul [that] is needed for our people'.¹⁰⁶ This was a result of the High Court's judgement in *Western Australia v Ward*,¹⁰⁷ handed down only the month before the Martu determination. The Court had found that the vesting of certain reserves, including some national parks, may have extinguished native title. At the time of the determination, it was unclear whether this was the situation in relation to Karlamilyi or not. Hence its exclusion from the determination.¹⁰⁸ The claim over Karlamilyi remains in mediation with the National Native Title Tribunal (Federal Court file no. WAD6110/98; www.nntt.gov.au).

¹⁰⁶ Teddy Biljabu at Parnngurr on the day of the determination, quoted in *The Weekend Australian*, September 28-29, 2002.

¹⁰⁷ [2002] HCA 28. The case is also referred to as the Miruwung Gajerrong case.

¹⁰⁸ In January 2010, the Federal Attorney-General released draft legislation setting out a proposed amendment to the *Native Title Act*. This arose from proposals made in 2008 by Robert French, by then Chief Justice of the High Court. The proposed s47C would allow the native title applicants and the relevant government party to agree to disregard the historical extinguishment of native title in areas of land set aside for the purpose of preserving the natural environment, in certain circumstances (www.ag.gov.au). Not surprisingly, all three

3.2 Martu organisations

With the determination of Martu native title, there are now three organisations through which Martu people operate. One has been established to meet the requirements of the *Native Title Act* but, within those constraints, Martu themselves have determined the governance and representation structure for all three. Each of the organisations has its own Board and governance arrangements, but the organisations exercise an active engagement with each other in a linked network representing Martu interests.

3.2.1 Western Desert Lands Aboriginal Corporation (WDLAC) is the Registered Native Title Body Corporate holding native title in trust for the Martu native title holders. On behalf of the Martu People, WDLAC holds the native title rights and interests, including the right to exclusive use, occupation and possession, which includes the right to control access, of 136,000 square kilometres of land within the Central Western Desert region. It has offices in Parnngurr (Cotton Creek) and Perth (www.wdlac.com.au) and is responsible for managing all activities affecting Martu native title.

Membership of WDLAC is made up of those Martu and Ngurrara native title holders identified in the Martu native title determination.¹⁰⁹ The organisation's decision-making process was developed over a five-year period, beginning in 1998. From the early meetings, the countries, or area sub-groups of Martu land, were documented as the basis for decision-making within a corporate structure. The proposed body involved five area groups with a governing committee made up of two men and two women from each of the sub-groups. In 2002 and 2003, further meetings including Ngurrara as well as Martu people agreed that there should be six area sub-groups, with the shared area being split into two sub-groups (Federal Court of Australia 2003: paras 4-6, 9). The same representation on the governing committee was to be continued, together with three community members. In 2009-10, this number of directors was reduced as a result of changes required by the introduction of the new *Commonwealth Corporations (Aboriginal and Torres Strait Islander) Act 2006*

organisations working with or for the Martu native title holders forwarded submissions in support of the proposed amendment, with specific reference to Karlamilyi (Rudall River) National Park. The submission from the Western Australian Office of Native Title opposed the amendment. No further action has been taken to date by the Federal Attorney-General.

¹⁰⁹ Rule Book of the Western Desert Lands Aboriginal Corporation (Jamukurnu-Yapalikunu) Registered native Title Body Corporate (www.oric.gov.au). A separate Ngurrara determination, covering country in the Great Sandy Desert north of the shared area included in the Martu determination, was reached in November 2010 (*Kogolo v State of Western Australia* [2007] FCA 1703).

(the *CATSI Act*). The present representation is one man and one woman for each of the six country-based groups, still with three community members in addition (Rule Book 2010: 28).

As well as being responsible for the management of Martu native title, WDLAC is also authorised to enter into agreements for and on behalf of the Martu people (Western Desert Lands Aboriginal Corporation 2010: 6). Although the level of exploration and mining is far less than that affecting the central and west Pilbara, these activities, together with increasing levels of tourism, have been significant in Martu country and will be looked at in more detail in the next section.

3.2.2 Kanyirninpa Jukurrpa (KJ) is the Martu History and Archive Project. An independent organisation since 2009, KJ began as an arm of WDLAC but as a discrete body within the larger organisation, translating the legal recognition of Martu ownership of country into practical programs focused on country. Its organisational structure reflects this focus, with twelve Martu directors drawn from across the communities where people now live – two from each of the main settlements and two from the diaspora – with three non-Martu advisory directors to assist with finance, administration, and other corporation matters. These developments were the result of Martu decisions.

KJ's work includes Ranger and Caring for our Country Programs, return to country trips, camel and other feral animal management plans, Martu Media, mapping, and training. There are three Ranger teams and seven Ranger programs as part of the land management program. Between March and May 2011, the program had fifteen to twenty young men on country every week.¹¹⁰ Some parts of the program operate with local CDEP teams (KJ Newsletter Sept./Oct. 2010), as CDEP continues to operate in the remote communities.

Central to this work of the organisation is active engagement with outside bodies like the WA Department of Environment and Conservation (DEC), the Department of Agriculture and Food (Newsletter March/April 2010), and CSIRO, with whom KJ has been working on a Martu Atlas. The Atlas will include tracks, waterholes, and where animals are found on country and how many (Sept./Oct. 2010:8). At the invitation of Rangelands WA, the Jigalong Rangers assisted the development of a new Ngurrawaana Rangers team to work on country around Roebourne (Newsletter March/April 2010:3). All these activities come under the KJ umbrella of protection and promotion of Martu cultural and heritage resources, and the development of an economic base for Martu in their communities, based on their culture, knowledge, and skills (Western Desert Lands Aboriginal Corporation 2008: 15).

¹¹⁰ Discussion with Peter Johnson from KJ, 23 May 2011.

They run alongside the history and archival responsibilities, which have also covered a range of projects. KJ was closely involved in the Canning Stock Route project. Among other Martu people who participated, emerging film maker Curtis Taylor from Martu Media was the youngest member of the project team (National Museum of Australia 2010: 220), and occasionally strayed into the Rock Art adventures. The book, *Cleared out* (2010) that was the basis of the documentary *Contact*, was written with Yuwali by two of the KJ people, Sue Davenport and Peter Johnson and KJ assisted in the organisation necessary for filming.

As with the environmental and land projects, historical and archival work is undertaken in collaboration with outside organisations. Importantly, partnerships have been developed with a range of national institutions: KJ has a partnership agreement with the National Library of Australia and similar agreements with the National Film and Sound Archive (NFSA) and the Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS). The partnership includes provision of both materials and funding. In March 2007, a group of Martu elders visited these institutions in Canberra, a trip organised by the National Library, the NFSA, AIATSIS, and the National Museum and arranged through KJ (AIATSIS Institute News, August 07). As part of the trip, the NFSA ceremonially handed them digitised copies of archival sound and moving image recordings (Australian Film Commission media release, 13 March 2007). KJ also undertakes cross-cultural awareness programs to companies, their employees and contractors.

3.2.3 The Martu Trust is the most recent of the organisations. Rather than having it imposed from outside, WDLAC itself recognised the need for a trust to manage and use the financial benefits beginning to flow to Martu people as a result of a number of negotiations taking place. The largest of these payments came when Rio Tinto sold the Kintyre uranium deposit in 2007 (see below). Information sessions and workshops were held at many different places over the next two years. The consultation strategy was developed with the assistance of KJ. WDLAC commissioned RPM, the Kununurra-based company that had worked with the Kimberley traditional owners to set up the Gelganyem and Kilkiyi Trusts to manage the money paid, also by Rio Tinto, from the Argyle agreement some years before. As part of the development of the Martu Trust, a group visited Kununurra to talk to the people involved in the Gelganyem and Kilkiyi Trusts (Western Desert Lands Aboriginal Corporation 2008: 13-14).

The design adopted by the Martu Trust is based on this model and contains four distinct areas: a future fund, a community organisation fund, a business enterprise fund, and a direct ownership fund (WDLAC Newsletter, May 2009).¹¹¹ In 2009-2010

¹¹¹ The same or a similar model is generally used in trusts set up as a result of negotiations between native title groups and Rio Tinto (see papers 2 and 3).

and in 2010-2011, the Trust agreed to fund projects in aged care, arts and crafts, business, community, education, health, funerals, law and culture, and issues of hardship. The Trust also agreed to provide \$100,000 to a Mums and Bubs Centre in Punmu; the project was mainly funded by World Vision and BHP but needed the extra funding for completion. Other joint funding for the Trust was with the Indigenous Coordinating Centre (ICC) and the Jigalong police for a school holiday program for Jigalong young people (WDLAC Martu Trust Newsletter July 2010).

As described earlier, the three organisations have distinct organisational structures¹¹² and operations, but they meet monthly to exchange information and ideas, and to work towards clear agreement on each brief and identify where there are shared interests.¹¹³ The cross-over in many areas is in dealing with resource company interests. These are omni-present as elsewhere throughout the Pilbara, but less dominant in terms of their impact on Martu country and people.

4. Resource company engagement

In their third and final report to the Minister for Indigenous Affairs, the Indigenous Implementation Board emphasised that ‘economic participation will be a key means by which Aboriginal people are able to generate income that can be used for personal, community and cultural development’ (2011: 18). For Martu, as for other Pilbara Aboriginal people, an important, though not exclusive, channel has been through their more recent engagement with resource companies, especially since the recognition of native title.

4.1 BHP Billiton

The first big resource company with whom Martu had experience was BHP, who started their first iron ore mining operations in the Pilbara at Mt Whaleback in 1968. The town of Newman, some 165 kilometres west of Jigalong, was built as the company town to service the mine. The earliest contacts with Martu and Nyiyaparli people were not promising:

At one stage a few Jigalong men were employed there as labourers, but by 1970 the mining company was making quiet efforts to rid itself of both Aboriginal employees and the small group of local Aborigines who were living on the edge of the town. Local police were telling Aborigines that they were not welcome in Newman (Tonkinson 1974: 149-50).

¹¹² WDLAC is incorporated under the CATSI Act; KJ and the Trust under the Australian Securities and Investments Commission (ASIC).

¹¹³ Meeting with WDLAC and KJ, Perth, 25 May 2011.

Newman remained a closed town until 1982 (West Pilbara Planning Commission 2011: 22). The removal of restrictions coincided with the Martu move back onto country, to Punmu, Kunawarritji (Well 33), and Cotton Creek (Parnngurr). It was also around this time that Martu settled on the Newman Parnpajinya town-based reserve. Changes by then in BHP's attitude meant that the company was among the bodies who contributed towards Parnpajinya basic infrastructure (Shanks 2020: 75).

Such changes increased rapidly with the development of more Pilbara mines and the advent of native title, and also work with Indigenous groups outside Australia, such as the EKATI diamond mine in Canada's North-West Territories, where the company entered into a socio-economic agreement in 1996. Four years earlier, in 1992, the company established an Aboriginal Affairs department with offices in Newman and Port Hedland. It has entered into native title agreements with a number of Pilbara groups. With no mine on Martu country, it has nevertheless entered into a 'process of participatory development with the Martu people of the Western Desert' (www.bhpb.com):

The participatory development approach is structured within a number of existing partnerships between BHP Billiton Iron Ore and government and non-government organisations. This approach requires that the Company develop relationships with regional Martu organisations, which will ultimately strengthen institutional arrangements with government and industry at a regional level towards improved outcomes for Martu people.

Not all has gone smoothly, from the point of view of either BHP Billiton or Martu. But there have been important milestones. BHP Billiton was one of the principal partners for the Canning Stock Route Project and was a co-funder, together with the Martu Trust and with World Vision, of the Punmu Mums and Bubs Centre. The latter is part of a \$5 million dollar partnership entered into in 2009 with World Vision aimed at helping health and pre-school learning activities in the East Pilbara (www.bhpbilliton.com.au).

In 2001, the Newman *Partnership for Success* – the Newman Aboriginal Education Partnership – was initiated. This program is part of the Graham (Polly) Farmer Foundation's 'Follow the dream/Partnerships for success' (see Introduction paper and paper 2) and is a partnership between The Graham (Polly) Farmer Foundation, the Western Australian Department of Education and Training, the Australian Department of Education, Employment and Workplace Relations, BHP Billiton Iron Ore and local Community Members.

Prior to the project commencing, BHP Billiton commissioned a detailed consultation process with the local Indigenous community to determine what their desired outcomes were for the education of their children and what strategies could be put in place to achieve them. The study recommended that

The Graham (Polly) Farmer Foundation "*Partnership for Success*" project would provide an appropriate model to meet community objectives.

The Partnership operates from facilities supplied by BHP Billiton Iron Ore, which include study, tutoring, internet and kitchen facilities. There are 27 students. Since its inception in 2004 the Partnership has graduated 11 students, 2 of whom have gained Tertiary Entrance, 7 of whom have gained traineeships/apprenticeships or entry to TAFE and 2 to direct employment. (www.pff.com.au/partnerships/newman.php)

There are now four enrichment centres across Port Hedland and Newman to support local Indigenous students (Australian Indigenous Education Foundation/BHP Partnership launch, 30 August 2011). A new partnership building on this experience was formed in 2011 between BHP Billiton Iron Ore and Mission Australia, through which a dedicated team from Mission Australia will mentor identified students from Newman and Port Hedland, 'in order to track their progress against their aspirations and connect them to further opportunities and programs currently on offer both in the Pilbara and Perth' (www.pilbaraecho.com.au).

4.2 Rio Tinto

Rio Tinto's presence in this area of the Pilbara is later. In the early 1980s, CRA Exploration raised concerns for Martu people by carrying out activities in and around Karlamilyi, with drilling at the sensitive area of Parnngurr rock hole. It was in response to these activities that a group of primarily Warnman and Manyjilyjarra speakers returned to the rockhole and set up camp, establishing the basis of what has become the Parnngurr community (Lawrence 1989: 10).

An uneasy interaction between CRAE and Martu people continued over the next few years. These persisted over the period of the Seaman Inquiry into Aboriginal Land Rights which, although ultimately unsuccessful, influenced some events for Martu people. One of these was a meeting at Well 33 in April, 1984, between Commissioner Seaman and Aboriginal representatives from a wide array of Aboriginal communities on the desert's periphery. 'Two days before the meeting with the Commissioner, the assembled group formally incorporated as the Western Desert Land Council' (1989: 8). This became the Western Desert Puntukurnuparna Aboriginal Corporation (WDPAC), which operated for some twenty years as a land council and later as the Native Title Representative Body.¹¹⁴

¹¹⁴ WDPAC no longer carries out these functions. It has been replaced by Central Desert Native Title Services as the Native Title Representative Body for Martu and other desert people. And, as we have seen, Western Desert Lands Aboriginal Corporation (WDLAC) – a

The following year, various government agencies – the Department of Aboriginal Affairs, the Aboriginal Affairs Planning Authority, and the Public Works Authority – began discussions with WDPAC about providing living area leases to the communities at Punmu and Parnngurr. Towards the end of the same year, 1985, the Land Council received word that CRAE had identified a significant uranium deposit at Kintyre (1989: 11-12; 16). The deposit is very close to the park, but lies just outside its northern boundary.

Because of both Federal and State government uranium policies, Kintyre has not yet been developed. However, in 2005, Rio Tinto¹¹⁵ initiated negotiations with Martu with a view to reaching an agreement about a benefits package in return for support for the mine to go ahead. By mid-2007, a detailed draft agreement was on the table. As with other Rio Tinto agreements, it included both financial and non-financial benefits. A year later, however, Rio was in the process of selling Kintyre. Negotiations about gaining Martu support for the sale ‘got off to a bumpy start’ but were ultimately successful (WA Today, July 10, 2008). Canadian company Cameco bought the project in 2008 in a 70% joint venture with Mitsubishi. It was the money paid to Martu by Rio Tinto as part of the sale agreement that generated the move to establish the Martu Trust (WDLAC Newsletter May 2009).

Negotiations between WDLAC and Cameco are continuing, with the establishment of a Kintyre Consultative Committee who meet on a regular basis to discuss the project and the prospect of moving towards negotiations about a comprehensive mining agreement. Cameco has made a commitment to hiring and training local Martu people to work in the exploration camp. Their web site indicates that this resulted in close to twenty new jobs for Martu during the drilling program (www.cameco.com/australia/kintyre), although there have been some incidents of concern where WDLAC has reported the company to the Department of Indigenous Affairs for perceived breaches of the *Aboriginal Heritage Act 1972* (Western Desert Lands Aboriginal Corporation 2010: 9).

The future of the project, however, is finally dependent on a change in government uranium mining policy.

completely separate organisation – is the Prescribed Body Corporate holding Martu native title in trust.

¹¹⁵ The Rio Tinto subsidiary involved was Canning Resources. Initial discussions were carried out through Central Desert Native Title Services, the Representative Body, until WDLAC took over the negotiations in 2007 (Western Desert Lands Aboriginal Corporation 2008: 8).

4.3 Other

In addition to iron ore and uranium, gold has also brought major mining activity to the Pilbara. For Martu, this relates to Telfer, a former mining town and mine on their traditional country but excluded from the native title determination. Telfer was originally built by Newmont Mining in 1976 to service the mine, where operations began in 1977 as a joint venture between Newmont and BHP. In 1990, Newmont Australia and BHP Gold merged to form Newcrest Mining, making Newcrest the owner and operator of Telfer. In 1996, the company made the decision to wind back the town as a residential site to a base for a fly-in fly-out (FIFO) workforce. In 2000, mine operations were suspended but resumed in 2005, with a Community Relations Agreement having been reached with Martu (www.newcrest.com.au/history), and WDLAC is now in negotiations with Newcrest about a comprehensive mining agreement (Western Desert Lands Aboriginal Corporation 2010: 9).

Petroleum exploration on Martu country is also intensifying, requiring constant vigilance from WDLAC. However, in the midst of the Pilbara mining bonanza, the Martu decision to reject one mining proposal was supported by the National Native Title Tribunal. This was a proposal by Holocene, a wholly owned subsidiary of Reward Minerals, to mine potash at Lake Disappointment. This was in the part of the native title determination where the Martu people hold exclusive native title rights but remains nevertheless subject to the future act regime under the *Native Title Act*. *Yiwarra Kuju* sets out the deep significance for Martu people of Kumpupirntily (Lake Disappointment) (National Museum of Australia 2010: 61ff):

The power of the *Jukurrpa*, and of the ancestral beings whose actions shaped the world, remains present in the land...Along the Canning Stock Route, this influence is felt most powerfully at Kumpupirntily (Lake Disappointment)...One of the most dangerous areas in the Western Desert, the lake is home to cannibal beings known as Ngayurnangalku (the word means 'will eat me'). The Ngayurnangalku live under the surface of the lake, in their own world, with its own sky and a sun that never sets...Martu people will not set foot on the lake's salt-encrusted surface for fear of those who live beneath. According to Yunkarra Billy Atkins, even passing by can be dangerous.

Despite this, Martu did not immediately reject the initial proposal by Reward Minerals; meetings between the two parties took place over 2006 and a Term Sheet agreement was signed (www.rewardminerals.com). However, when discussions stalled, the company approached the State government to activate the provisions of the *Native Title Act* to allow the grant of a mining lease. In the inquiry that went before the Native Title Tribunal, both Holocene and the government sought a determination that the mining lease could be granted, though they differed on the conditions that might be applied. WDLAC sought a decision that the grant not be made. This is only one of three cases in which the native title party has maintained

this position in an inquiry before the Tribunal (National Native Title Tribunal 2009: 3).

In May, 2009, the Tribunal found that the act must not be done.

The National Native Title Tribunal determined that the lease must not be granted essentially because the interests, proposals, opinions and wishes of the native title party in relation to the management, use and control of the area concerned should be given greater weight than the potential economic benefit or public interest in the mining project proceeding. *This is the first determination made by the Tribunal to that effect* (2009: 2, emphasis mine).

Holocene asked the Commonwealth Attorney-General to overrule the Tribunal's determination, an avenue of appeal provided for under the *Native Title Act*. The Attorney-General did not overrule the decision.

Understandably, the Martu and others saw this as an historic moment. It is possible to speculate that, had the proposal concerned iron ore, or even gold or petroleum, the outcome might have been different and arguments about the national interest might have prevailed. Nevertheless, the case demonstrates both the active role being undertaken by Martu people in protecting their cultural heritage and also the extent to which the recognition of native title allows them, along with other Indigenous Australians, to assert their rights against outside interests, including government. The uniqueness to date of the decision suggests that this outcome is neither the norm nor a precedent, particularly in the resource hot-house of the Pilbara; but it has been an important victory for Martu people in terms of their own priorities and concerns, and 'given hope to traditional owners Australia wide that they can have a voice' (Western Desert Lands Aboriginal Corporation 2009: 7). In the context of the present remoteFOCUS discussions, perhaps the more important point is that the Martu voice, always there for those prepared to listen has been heard.

4.4 Martu Land Access Agreement

In response to the increasing ubiquity of exploration activities on Martu country, WDLAC has created a comprehensive land access agreement template, the 'Land Access and Mineral Exploration Agreement', and a similar standard agreement for petroleum exploration. Most, but not all exploration companies have been willing to sign such an agreement, but WDLAC has worked closely with key personnel in DEC or the Department of Minerals and Petroleum and, as a result, has successfully prevented some areas from being released for exploration because of their high significance to Martu people (2010: 8,9).

5. Martu within the broader Pilbara development context

For Martu, then, as for other Aboriginal people throughout the Pilbara, interaction with resource companies is a constant, if somewhat less engulfing, factor. At the

same time, discussions between the Martu and resource companies to a large extent take place without the involvement of government, though clearly within the framework of government policy and regulation, and with necessary, and generally constructive, interaction with relevant government agencies such as the Department of Environment (DEC) and the Department of Minerals and Petroleum.

The immediate issue for remoteFOCUS then is: to what extent is the present government refocus on the Pilbara, with energetic planning for and substantial resources into the region, likely to make a difference for Martu people? And what are the elements of planning and resources that may have an impact? The announcement of the Pilbara Revitalisation Plan in May 2009 committed the State government to provide \$300 million from the Royalties for Regions fund 'to modernise and transform Pilbara communities over the next four years' (Minister for Regional Development, Ministerial media statement, 11 May 2009). One of the community development schemes identified in the announcement was 'Newman tomorrow'.

5.1 The Newman Revitalisation Plan

The *Pilbara Planning and Infrastructure Framework* lists Newman as a 'sub-regional centre' (Western Australian Planning Commission 2011: 5). This is just below the proposed Pilbara cities of Karratha and Port Hedland, and above the 'major towns' of Tom Price, Onslow, and Wickham. The *Framework* makes the point that Newman is now BHP Billiton's 'mining hub' for its central and east Pilbara operations, though neglects to mention that it now also falls within the Rio Tinto footprint since they began operations at the Hope Downs 1 mine, 75 kilometres north-west of Newman, in 2006; Hope Downs 4, still to come on stream, is 35 kilometres also north-west of the town. The Framework also notes that the town services the needs of the Aboriginal settlements located throughout the East Pilbara. The estimate of the current population is around 6000,¹¹⁶ with another 2000 fly-in fly-out (FIFO) workers. This is planned to expand to 15,000 by 2035 (2011: 22).

The *Newman Revitalisation Plan* (2010) points out that

it is widely recognised around the world that some places require government interventions, without which they are unlikely to reach their potential. The more important these places are, the more urgent the need will be to identify exactly what is required to be most effective. The traditional interventions and delivery of soft and hard infrastructure by the State Government is conceived and delivered by a wide range of State agencies and Government Trading Enterprises, each with a different focus, timing and lacking coherence. The call

¹¹⁶ The discrepancy between this and an earlier one of 7000 indicates the fluidity of the Newman population.

for urgent action in Pilbara towns recognises that a new governance approach is needed (2010: 13).

The *Plan* also recognises that, while there is a comparatively low number of Aboriginal residents in the town, 'there are a number of surrounding communities with high Aboriginal populations that access the services provided in Newman (2010: 26). It acknowledges that one of the shortcomings of the present situation is a 'lack of positive engagement of the Aboriginal community in the town centre' and goes on to mention,

the current influx of people from outlying 'dry communities' coming to the Newman town centre to access alcohol at the bottle shop, which results in inappropriate behaviour, street drinking and other negative social issues in the middle of the town centre (2010: 28).

This is a problem that is now the object of close attention by the Department of Indigenous Affairs (DIA).

In its 2011 *Report*, the Indigenous Implementation Board commented:

The Board has been gratified by the extent to which the reform of DIA has occurred. From a time where there was serious consideration being given to disbanding DIA there has been a significant transformation of the credibility of DIA as an agency capable of assisting Aboriginal people to achieve their due as citizens of Western Australia. DIA is now a respected Government presence at regional and state level and most importantly is earning the respect of Aboriginal people across the State. (2011: 47).

This observation is supported by an energetic presence of DIA in the Pilbara. One of its recent activities has been to address the issue of alcohol and the impact of remote visitors in Newman. Its *Newman Report 2011* (Shanks 2011) identifies a series of core issues and sets out a number specific strategies and initiatives to deal with them. This was done in close collaboration with Martu and other Aboriginal people, although the *Report* points out that 'Aboriginal people interviewed and who have met with DIA for this Report, said "no more talking by government or consulting Aboriginal people". The issues are already known, we must all move together towards developing and supporting identified local strategies' (2011: 5).¹¹⁷

In a related initiative, DIA is now working with Pilbara Cities on a transformation project for four of the Pilbara town-based reserves. This includes Newman's

¹¹⁷ A similar comment was reported in the DIA Roebourne Report a couple of years earlier (Shanks 2008). It underlies and emphasises the distinction between 'consultation' – government officers or others going in to talk to people but taking little or no action subsequently – and what Indigenous people see as true partnership.

Parnpajinya Aboriginal community.¹¹⁸ This project is fundamentally different from previous approaches to managing Aboriginal reserves and communities. Earlier thinking had settled for attempting to improve infrastructure with, for example, community layout plans. One for Parnpajinya had been prepared in 2002 and endorsed by the WA Planning Commission in 2006. It represents an example of the 'business as usual' approach rejected in the *Newman Revitalisation Plan*, proposing to add just one new house to the existing twelve, and a 'visitors camp' (www.planning.wa.gov.au/dop_pub_pdf/parnpajinya_clp1_living_area_2002.pdf). Such approaches tended to reflect an 'out of sight, out of mind' attitude and did little to address social problems.

As the *Town-based Reserves Transformation and Re-development* business plan points out, 'All Aboriginal town-based reserves are a legacy of 19th and 20th century Western Australian government policies that first sort to protect and later segregate Aboriginal Western Australians' (DIA 2011: 4). The document goes on to point out:

[Town-based Reserves] in the Pilbara (as across the State) are a discrete pocket of disadvantage within otherwise prosperous regional towns. This disadvantage will be further highlighted as a result of significant investment into the Pilbara through the Pilbara Cities Initiative if investment and change is not directed towards the TBRs.

Aboriginal people living in Pilbara TBRs do so in appalling dysfunctional environments with poor living conditions and with less access to services than non-Aboriginal people. TBR residents are impacted by overcrowding, high unemployment rates, and social problems on a daily basis...

With the current Pilbara Cities vision proposing major transformation of the Pilbara centres and towns of Karratha, Hedland, Newman, and Onslow, there exists a fantastic opportunity to ensure that Pilbara Aboriginal population living in town-based reserves within these major centres and neighbouring towns are not left out of the wider Pilbara vision (2011: 4, 5).

The plan is a radical re-think towards normalisation and a staged transition into the towns themselves. The reserves would remain Aboriginal Lands Trust property, and perhaps become a cultural hub, but not residential. These decisions are to be made

¹¹⁸ The other three are Bindi Bindi in Onslow, Tjalka Boorda in South Hedland, and Irrungadji in Nullagine. The transformation project will be applied in different ways in each place, depending on the specific local circumstances. It should be noted that the town-based reserves transformation project is not related to any move to close down remote communities and bring people into 'growth' towns. It is premised on the actual situation of Aboriginal people already living in or near towns and the conditions that currently go with this.

working with each local Aboriginal group. In the case of Newman, BHP is also keen to support.¹¹⁹

At the same time, local Aboriginal people are themselves exploring ways of representing their place in this process. Curtis Taylor, the young film maker involved in the Canning Stock Route project, situates the dramatic climax of his short film *Mamu* around London Bridge, one of the Parnpajinya sites where drinkers hang out. Drawing on both traditional belief systems and contemporary realities to show the fundamental importance of maintaining links to both, he explains, 'We want people to look at us the way we see ourselves'.¹²⁰

A project such as the *Town-based Reserves Transformation and Redevelopment* indicates the possibilities that arise when government energies and expertise align rather than operating in silos. In this case, the Royalties for Regions allowed for the emergence of the Pilbara Cities initiative, with resources, both human and financial, to go with it. The WA Planning Commission developed the *Pilbara Planning and Infrastructure Framework* to provide precisely a framework for the work of Pilbara Cities. As discussed in paper 1, neither in the *Framework*, nor in Pilbara Cities' discussions, is there much inclusion of Aboriginal people or communities. The *Framework* dedicates one page to 'Aboriginal communities' (2011: 33) and the emphasis for Pilbara Cities is on bringing more outsiders to the region: who, as Chris Adams, Pilbara Cities General Manager commented, will die there as well as live there, that is, complete a life cycle there: 'At present, no one dies there. One success factor would be that the cemeteries are full'.¹²¹

Enter a restructured and reinvigorated DIA, whose direct responsibility is to Aboriginal people, and who have recognised the opportunities potentially available to Aboriginal people through the changes in government policy and resourcing. What they are in the process of achieving is active and effective co-operation – not co-ordination – across a range of government agencies and programs, and beginning to access some the resources, especially from the Royalties for Regions, necessary to maintain this. Funding is still to be allocated for stage 1 of the *Town-based Reserves Transformation and Redevelopment Project*, but other projects directly relevant to

¹¹⁹ Interviews with Helen Shanks, DIA Director Operations – Central (Pilbara/Goldfields), 24 May 2011 and 20 July 2011.

¹²⁰ AIATSIS National Indigenous Studies Conference. Young and old: connecting generations'. Canberra: September 2011.

¹²¹ ABC Radio National, Saturday Extra, 6 August 2011; and see Introduction paper. The comment obviously refers only to non-Aboriginal people; Pilbara Aboriginal people, like Indigenous people elsewhere in Australia, die at a rate much higher than non-Indigenous Australians, and Pilbara Aboriginal cemeteries are all too full.

Martu people have already been approved. One is for preparation of design and costs for suitable building/infrastructure for medical services for the Puntukurnu Aboriginal Medical Service in Jigalong (June 2010). KJ has assistance to purchase three houses in Newman to accommodate senior management for the Martu Knowledge Program (rdl.wa.gov.au/royalties/r4rpilbara/Pages/default.aspx, 4 Aug. 2011). DIA, in working with Pilbara Cities and with WDLAC, is also developing a Martu community housing model, both for Jigalong and for other Martu places of residence such as Nullagine.¹²²

5.2 Local government

There is still a long way to go. In its *Report on the Inquiry into Local Government Service Delivery to Indigenous Communities* (2008), the Local Government Advisory Board noted:

Local governments have a responsibility under the *Local Government Act 1995* to provide for the good government of people within their district. While local governments provide good government to the majority of their residents, they generally have not provided regular or wide-ranging services to Indigenous communities, particularly those in remote communities (2008: 46-47).

The *Report* goes on to elaborate that

Local governments have long cited the land tenure status of Indigenous communities as a reason why they have not established effective relationships with Indigenous communities or provided services to them. The majority of Indigenous communities are located on Crown Reserve land that for the most part is vested with the Aboriginal Lands Trust (ALT). This is generally classed as private land. A significant number of reserves [including Jigalong] have also been proclaimed under the *Aboriginal Affairs Planning Authority Act* and these require entry permits.

The private nature of communities and the undedicated status of access roads are also recognised as major impediments to local government service delivery in Indigenous communities. Local governments have generally adopted the view that they are not responsible for providing services or facilities to Indigenous communities which are not accessible to the general public (2008: 36-37).

For local government, too, the issue of rates and the exclusion of these communities from the requirement to pay them is also an obstacle to the provision of services to remote communities. From 1990 up until its abolition in 2005, ATSIC provided Indigenous communities with funding for the delivery of core essential and local

¹²² Interviews with Helen Shanks, 24 May and 20 July 2011.

government services through the Community Housing and Infrastructure Program and CDEP (2008: 45). In 2006, the State and Commonwealth Governments signed their Bilateral Agreement on Indigenous Affairs, as well as an *Agreement for the provision of housing, infrastructure, and essential services for Indigenous people in Western Australia: November 2005-June 2008* (2008: 21, 46). Parnngurr and Punmu were both included in the State's implementation document, *Western Australia's Operational Plan for Indigenous Housing, Infrastructure, and Essential Services July 2006-2007* (Department of Housing and Works 2006). To date, local government involvement remains largely at the level of endorsement of community layout plans.

At the same time, WDLAC and KJ are engaging with both DIA and the East Pilbara Shire: WDLAC about housing in Jigalong,¹²³ both WDLAC and KJ about roads. A road between Punmu and Parnngurr proposed by the Department of Environment and Conservation (DEC), for example, had not been agreed to by WDLAC 'because DEC hadn't talked to Martu enough about it' (KJ Newsletter March/April 2010: 10). The discussions that took place in 2009 and 2010 covered matters such as whether the road would belong to the Shire or to Martu. 'If it was a Martu road, only Martu could use it...But if there was an accident, no-one would be covered by insurance. Martu would also have to pay to look after it. If it was a Shire road, the Shire (or DEC) would have to pay to maintain it'. Martu decided that it should be a public road and DEC was to talk to the Shire about helping to pay for it. Newcrest organised training for Martu to help build the road. A key concern for Martu was that tourists should not have access to sacred places.

These are the immediate, place-based concerns for Martu, and they now have recognised native title ownership of country and representative organisations through which to negotiate them. Although they are experiencing effects from the current Pilbara resource boom, its impact is moderated for them because of their still relative remoteness, at least apart from towns like Newman. Many of their interactions are through departments like DIA and DEC, which have a significant focus on their concerns and an immediate and ongoing presence on the ground. These factors offer Martu people an increasingly responsive channel through which their voice is being heard. They are also developing a robust basis and framework for partnership with resource companies, government, and non-government organisations and institutions. Projects such as *Yiwarra Kuju* – the Canning Stock Route and Rock Art projects – are a vivid demonstration of the richness available when all these participants come together to allow Martu, and related Western Desert people, to express the centrality of place, and how it infuses and underpins the relationships and conditions even of contemporary everyday life. The moves

¹²³ Ibid.

towards an increasingly effective set of partnerships indicate the possibilities that arise when this place-based understanding of the world, and its expression through effective and networked Aboriginal organisations, is taken seriously by governments.

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15. Imagining a region: prototypes and possibilities for Pilbara Aboriginal people

Dr Mary Edmunds

1. Introduction

On 26 September 2007, Marnda Mia, a new central and west Pilbara Aboriginal regional organisation officially opened its office in Roebourne. Its logo carried the statement, 'In unity, there is strength'. The news release published to mark the occasion stated:

Marnda Mia is an independent company which aims to build coordinated, institutionalised capacity for local indigenous families and groups and provide a strong local voice. It will provide a consistent regional response to education, employment, training, property and business development and enterprise support...

The “**Principles**” that have guided the establishment of the independent organisation/company Marnda Mia CNC Pty Ltd are that:

- Marnda Mia CNC Pty Ltd should be an independent voice, owned and controlled by Traditional Owners;
- Members are all equal amongst themselves;
- Marnda Mia CNC Pty Ltd should be a mainstream company, not subject to Indigenous legislation;
- Marnda Mia CNC Pty Ltd should be an organisation/company that [native title] claimant groups could choose to belong to; and
- The strong should help the weaker, for the benefit of all realising their vision for the future (Marnda Mia and Rio Tinto Iron Ore 2007).

The company had evolved from negotiations between Rio Tinto Iron Ore and a number of the Pilbara native title groups who, in 2003, had come together in an informal cooperative working group to form a Central Negotiating Committee (CNC). This was incorporated as Marnda Mia CNC Pty Ltd in early 2007 'to develop a regional approach to issues which affect all the Traditional Owners of the Pilbara. Its role is to work collectively to address disadvantage faced by Aboriginal people in the region' (Marnda Mia nd.).

Four years later, its offices stand vacant and locked. The notice facing the highway as it goes through Roebourne forlornly asserts, 'Serving the Aboriginal People of the Pilbara'. The web site, largely unattended for several years, has finally been removed.¹²⁴ The realisation of another fine, if flawed, vision of a united Pilbara Aboriginal voice has proved elusive.

In some ways, Marnda Mia's problems were specific to mistakes made in the process of its own development (see below). In others, it demonstrates the challenges that need to be met if there is to be a representative Pilbara Aboriginal voice. Similar, but not less fundamental, issues confront the proposed Roebourne Aboriginal Congress (paper 2) and must be addressed in the development of any new forms of governance for the Pilbara as a whole if Aboriginal people are to increase their effectiveness beyond individual, family, or group concerns in engaging with the present fragmented hyper-development in the region.

One of the governance dysfunction features (number 2) identified in the remoteFOCUS project is that of governance and mis-alignments: that is,

that Indigenous populations do not tend to have equivalent structures of political representation nor structures of internal organisation that correspond with government structures. This makes it difficult for governments to 'see' them, and governments will therefore try to create proxies that co-respond to them, and enable them to 'see' into (and thus manage relationships with) Indigenous populations. This misalignment or 'institutional asymmetry' means political/administrative structures are 'imported', instituted by executive means, and only partly bed-in locally. The structures become a consuming point of political contestation, not the object they are intended to achieve.

Second, it follows that Indigenous populations...will be seen as having difficulty in sustaining collective action decisions (reaching them, and sustaining them over time). For both reasons, from a government and Indigenous point of view, you get a lot of voice without articulation of power (Walker 2011: 7).

If remote Australia has been the 'forgotten back yard' of each State and Territory as Walker suggests (2011: 1), then Aboriginal people might be characterised as the forgotten back yard of the Pilbara, at least until recent years (cf Taylor and Scambary 2005), and at least in terms of effective engagement with both government and industry. To date, the common law and statutory rights arising from native title have provided the strongest basis for individual groups to benefit from the region's resource development. At the same time, the assertion of native title rights has also led to a reassertion of group identity defined by and limited to

¹²⁴ The Marnda Mia Board agreed to go into liquidation in April 2012.

native title and, often, to a fracturing of other social, residential, or cultural bases of commonality.

In important ways, therefore, as earlier papers have discussed, there is a tension for Aboriginal people between a need to privilege the local and a demand to operationalise the regional; the situation described by Sutton (2003:85; paper 3) as the tension – ‘for reasons that are ancient in origin’ – between atomism and collectivism. A further dimension is the ways in which Indigenous extended families of polity form ‘the backbone of governance arrangements and especially organisational modes of governance’ (Hunt and Smith 2006: 10; paper 3). This itself can cause the marginalisation of other, less influential families or individuals.

The question then is: how might these opposing pressures be reconciled?

2. Background

It is arguable that Australia had achieved a legitimate model of Aboriginal regional and national governance but that this proved to be incompatible with the centralising and whole-of-government agenda adopted by the Federal Government in the late 1990s (Sullivan 2011: 34). The model was the Aboriginal and Torres Strait Islander Commission (ATSIC) with its thirty-five Regional Councils. It was abolished by the Federal Government in 2005.

It is not the purpose of this paper to revisit the ATSIC saga. However, some of the related issues are instructive for the present remoteFOCUS discussion, particularly as the abolition of ATSIC and its impact on Pilbara Aboriginal people is a prime example of policy turbulence and policy nonsense, where ‘the half-life of policy in remote Australia looks like it does in a fragile state environment’ (Walker 2011: 7-8).

In December 2002, the then Federal Minister for Immigration and Multicultural and Indigenous Affairs, Philip Ruddock, commissioned an external review of ATSIC. This was the first comprehensive review undertaken. In April 2003, a month before the review panel was due to produce a public discussion paper, the Minister announced a series of changes, including the establishment of a new agency, Aboriginal and Torres Strait Islander Services (ATSIS) (Pratt 2003: 1-2). It was disbanded just over a year later, on 1 July 2004.

The ATSIC review’s Report – significantly titled *In the hands of the regions* – was presented to the Minister in November 2003. It recommended structural change, but not abolition. Central to its recommended restructure was ‘a package of reforms which gives greater control of ATSIC to Aboriginal and Torres Strait Islander people at a regional level’ (Commonwealth of Australia 2003: 5). ATSIC itself was, at this point, giving serious consideration to the possibility of Regional Councils being reconstituted as Regional Authorities (ATSIC 2000). The ATSIC report referenced the Torres Strait Regional Authority and identified that ‘there was more support

from discrete and remote communities for the establishment of regional authorities than from those in settled urban and rural centres where communities have often been dispersed', and that 'following the regional example of the Torres Strait Regional Authority, it was easier to form a regional authority over a discrete geographic region where Indigenous peoples formed a majority' (2000: 16, 16-17).

The 2003 ATSIC review Report makes clear its view that 'a regional orientation will strengthen the voice and efficacy of regional councils and establish the necessary framework for integrated service and program delivery' (ibid.), a view writ large in the title of the Report, 'In the hands of the regions – a new ATSIC'. Instead, the government not only ignored the recommendations about regionalisation but transferred Indigenous programs from ATSIC/ATSIS to existing mainstream Australian Government departments and agencies. Previous ATSIC consideration of the establishment of regional authorities disappeared.

The response of one Aboriginal region – in the East Kimberley, not the Pilbara, but reflecting widespread views – was expressed as follows:

The Wunan Regional Council, on behalf of the Aboriginal people of the East Kimberley, would like to express its concern and disappointment about the abrupt and ill-considered decision of the government to abolish ATSIC. While there may be some legitimate concerns about the operation of ATSIC, the precipitate action that led to the mainstreaming of ATSIC programs and administrative staff without proper consultation or satisfactory arrangements being put in place, has created considerable confusion and anxiety amongst the Aboriginal community...The Wunan Regional Council feels very strongly that Aboriginal people should have the opportunity to participate actively in the decisions that affect their future. Just as passive welfare has been recognised as a problem, so too will passive policy processes lead to worse outcomes for Indigenous people (Wunan Regional Council [2005]).

As a nod to the regions, the government established Indigenous Coordination Centres (ICCs) to 'replace ATSIC offices nationally' (Senate Select Committee 2005: 85) and to be a demonstration of the new 'whole of government' policy:

The ICC managers will have staff from multiple federal and state/territory agencies; their role will be to engage with stakeholders and coordinate dealings between all agencies and their clients on a whole of government basis. However, the ICCs are not intended to be direct service delivery shopfronts. ICCs will coordinate the design and delivery of services with local Indigenous communities (2005: 85-86).

In 2006, the ICCs became part of the amalgamated Department of Families, Community Services and Indigenous Affairs (FACSIA; now, in yet another change, Families, Housing, Community Services and Indigenous Affairs (FaHCSIA)). The

ICC for the Pilbara is based in South Hedland. But whereas ATSIC had one region – Ngarda Ngarli Yarndu – that serviced the central and west Pilbara and another that included the East Pilbara in a much broader Western Desert region – the Hedland ICC covers the whole of the Pilbara region, including the East Pilbara.

3. The idea of a region: what and why?

As the ATSIC regional boundaries and earlier discussion of the Martu (paper 4) suggest, the question of the Pilbara as a single region for Aboriginal people is not self-evident. Nor, in light of displacement and movement, are the meanings of ‘local’ and ‘community’ which, in the present social and economic context, are related but not the same. For Aboriginal people, ‘local’ refers to two principal domains that underpin and define social connectedness: traditional country, which is larger than native title but now includes that; and place of residence, the town or settlement often referred to as ‘community’, that is sometimes, but very often not, on traditional country. For Aboriginal people, then, attachment to ‘place’ is layered; so that ‘place-based’ concerns and decisions encapsulate this multiplicity. ‘Community’ is one dimension, and places where people grew up may be another, as Aboriginal historian, Frances Peters-Little, makes clear (2000: 3-4):

The concept of community invokes notions of an idealised unity of purpose and action among social groups who are perceived to share a common culture. To some extent, ‘community’ and ‘culture’ are treated as synonymous, rather than as principles operating at different levels of social realities. Indigenous culture is therefore seen to define Indigenous community. This, of course, is not so...

[I also] examine the role government policy played in the development of Aboriginal ‘communities’ and their contemporary social organisation, geographical boundaries and cultural identities. While Aboriginal people did not passively accommodate new and imposed, introduced and artificial colonial boundaries, it is clear that missions, reserves and pastoral stations have become Aboriginal communities which are now an integral part of Aboriginal people’s heritage and are fundamental to Aboriginality.

For Aboriginal people, then, a region is a network, connecting people across place (locality) and community. And it was always thus, through songlines, ancestral dreaming tracks, marriage exchange, and ceremony, with clear ownership of defined territories but, particularly in the desert, permeability of boundaries. Demarcation of boundaries became clearer towards the coastal areas, but economic and ceremonial exchange extended inland for those groups as well. Today, those traditional links are reinforced especially during the time of Law business, with Martu and Nyiyaparli joining with central and coastal groups. The idea of the Pilbara as a single region is therefore not alien to its Aboriginal people, though the fit is not so neatly defined. Martu people, as we have seen for example (paper 4), form part of a distinctive desert cultural bloc with a north-south axis and strong

links to the east, into the Northern Territory, rather than to the west. A current DIA process working towards the establishment of a framework for governance reform in the Pilbara notes that 'there is recognition of Martu as a distinct group' (Shanks 2011: 10).

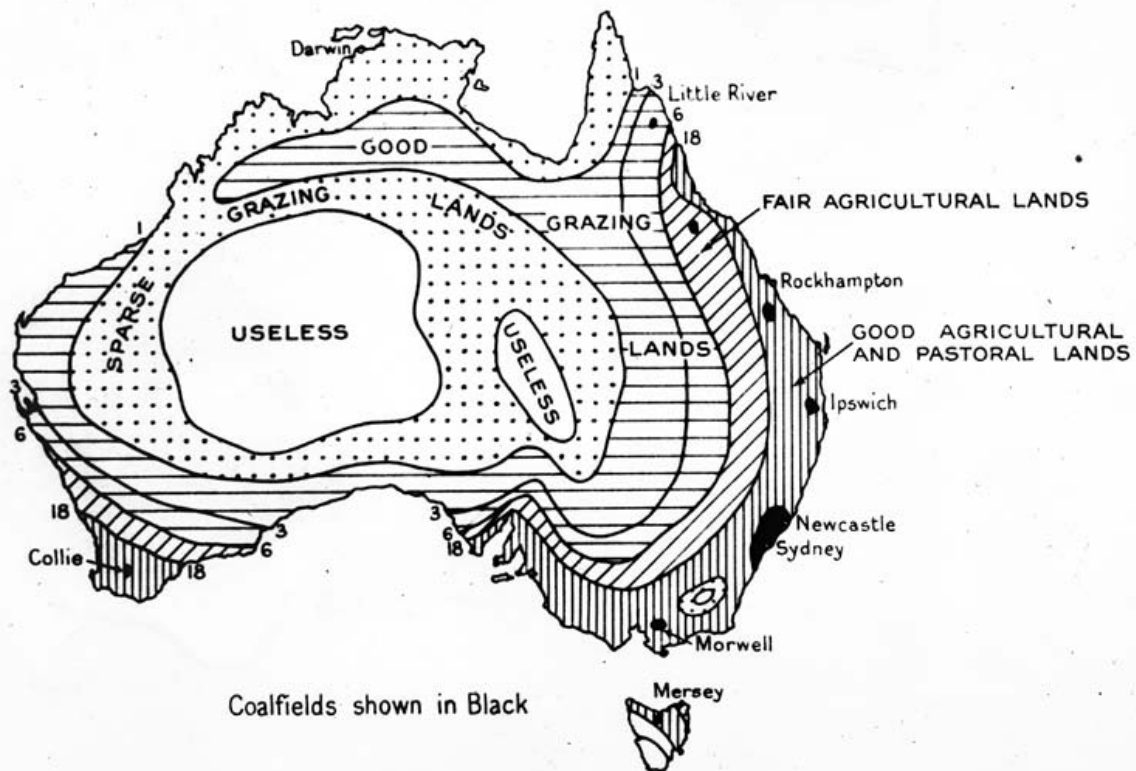
The history of colonisation in Western Australia also demonstrates that the emergence of a region entitled 'Pilbara' came relatively late. One historian suggests that the title was first used only for a goldfield proclaimed in 1888 and named after the Pilbarra Creek, a tributary of the Yule River, where the gold was discovered (de la Rue 1979: 87).¹²⁵ For a long time, the land was part of a larger region known as the North West. As late as 1955, the 'North West' remained as a general term to refer to land north of the 26th parallel (Kerr 1975: 3).

Indeed, since colonisation, the definition of 'regions' in Australia more generally has been diverse and based on ecological, mineral, economic, political, or a range of other interests. One map from the 1920s, for example, looks at regions from the point of view of a single mineral resource and possible habitation. From this perspective, the current region of the Pilbara fares rather badly.

¹²⁵ Linguists Sharp and Thieberger (1992) suggest that the name 'Pilbara' derives from Nyamal and Banyjima, *bilybara* meaning 'dry'.

HABITABILITY MAP OF AUSTRALIA

After T. Griffith Taylor in "Limits of Land Settlement"



Whatever the history, however, the region is now established by State and administrative boundaries. Though further sub-divided into the four shires, the notion of the Pilbara has become more than an administrative, statistical, or even economic division and has begun to resonate – albeit often accompanied by big dollar signs – in the national, as well as regional, imagination.

There is evidence, too, that Pilbara Aboriginal people acknowledge the need for a regional governance body (Shanks 2011: 10; Indigenous Implementation Board, Indigenous Pilbara Dialogue 2010; Edmunds paper 1). Whatever the artificialities from an Aboriginal perspective of the definition of the Pilbara as a region, there is a general acceptance, including from Aboriginal people themselves, that this is the

level at which Aboriginal people are required to engage if they are to shift the 'institutional asymmetry' that exists between themselves and government, not only at the State and Commonwealth levels but also at the level of local and regional government. Some of the current developments and possibilities are dealt with below.

4. Prototypes and principles

4.1 Aboriginal aggregated bodies

In her paper, 'Jurisdictional devolution', Smith proposes a 'geography of devolution' as an organising perspective or frame of reference for the effective implementation of Indigenous decision-making.¹²⁶ This would be 'in the form of a flexible aggregation model – regionally dispersed, layered community governance – which has both community and regional elements' (2002: vi). As part of this frame of reference, she discusses both the 'federalist principle' – of unification with autonomy or, in terms closer to Aboriginal understandings, of autonomy and relatedness (2002: 6-7, 9) – and the process of aggregation: 'a process of assembling or "scaling up" by the collection of particulars into a mass or sum, which it is then possible to consider as a whole or collectively' (2002: 25).

In a later paper, she outlines Indigenous principles of regionalism: relational autonomy, or the twin trajectories of narrow localism and broader relatedness; and subsidiarity, with federal systems of Indigenous governance being 'decentred' and accommodating 'inter-dependent layers' (2005: 6; Introduction paper).

I would argue that a number of the bodies or loose associations developed over time by Pilbara Aboriginal people and described in earlier papers manifest some of the defining characteristics of aggregation: the Northern Development and Mining Company, Pindan, and Nomads (paper 3); Ieramugadu and the Pilbara Indigenous Marine Reference Group (paper 2). Some of these were, or are, more successful than others. Formally incorporated bodies, such as Gumala, the IBN Corporation (paper 3) or the Ngarluma and Yindjibarndi Foundation (paper 2) can also be seen as aggregations rather than federations. The jury is still out on the Roebourne Aboriginal Congress but its failure to connect with the Roebourne people it is meant to represent suggests that its history may be a short one (paper 2).

The attempt to establish the Congress as a representative voice for Roebourne as a town suffers from some of the limitations that led to the collapse of Marnda Mia as a potential regional organisation. The lessons to be drawn from the latter are

¹²⁶ Smith's specific focus is Indigenous self-determination, including the question: Who constitutes the 'self' in self-determination? (2002: vi). Her analysis and model are equally relevant for the present discussion.

instructive in a discussion about developing a Pilbara-wide Aboriginal ‘governance hub’. For that reason, it is worth looking at the Marnda Mia story in more detail.

4.2 Marnda Mia

Marnda Mia failed principally because it became Marnda Mia. In the process, it was pushed too rapidly from a loose aggregation of native title groups supported by the Pilbara Native Title Service (PNTS, the Native Title Representative Body), to an incorporated entity at odds with the PNTS and with most of its previous membership base. The latter disconnection was the most damaging for its representative status and its longevity. Instead of operating as a unified voice, it became an element of contention and ultimately seriously divisive. Although still a registered company,¹²⁷ it has effectively disappeared from Pilbara affairs in all but name.

The genesis of Marnda Mia was the Central Negotiating Committee (CNC). This had emerged from the then seven native title working groups negotiating agreements with Rio Tinto Iron Ore in 2005 and 2006. The groups agreed to join together in the negotiations in order to deal collectively with the company and achieved what they saw as a successful outcome. Although the immediate agreements were with each of the native title groups individually, PNTS and the CNC also pushed for further negotiations that would lead to a regional agreement. By the end of 2007, discussions about a regional agreement were firmly on the table. These were to cover a range of non-financial benefits such as education and training, employment, and business development and contracting. They also involved further developing a regional representative voice to government (Rijavec 2010: 236ff). All seven groups and PNTS were in support of these continuing negotiations. There was also a request to Rio Tinto from some of the individual groups to establish an independent company based on the CNC for this purpose (Parker *et al.* 2008).

At that point, the process unravelled. The incorporation went ahead with the assistance of consultants contracted by Rio Tinto, but did so without maintaining ongoing consultation with the affected groups and without taking the proposed constitution back to each of the groups for authorisation before it was finalised. Over the same period, PNTS and its parent organisation, Yamatji Marlpa, withdrew their support for the new body. Over the following two years, negotiations continued with individual native title groups and some involvement of Marnda Mia in the discussions about establishing regional standards and a regional framework. At that stage, however, Marnda Mia was supported by only a remnant of the initial native title groups.

¹²⁷ ASIC Free Company Name Search, downloaded 5/9/2011.

With financial support from Rio Tinto, the organisation purchased the old Victoria Hotel and the offices on the highway. The hotel was unlicensed, was to be used for accommodation only, and was renamed 'Ieramugadu Inn'. Both hotel and offices now stand empty; the grand rhetoric is in tatters. Other commercial proposals included establishing an airline, another proposal that did not eventuate.¹²⁸ In 2011, Rio Tinto continues to underwrite the Victoria Hotel investment while Marnda Mia struggles to get out of debt. Rio Tinto also funds the legal advice Marnda Mia is receiving from the same consultant who drew up their constitution and assisted in their ill-fated incorporation.¹²⁹

In 2010, Rio Tinto Iron Ore signed final agreements with four native title groups, all represented by PNTS.¹³⁰ Each of the four groups opted to participate in a regional agreement that will include a Regional Aboriginal Corporation. This is not a new body and will be a company controlled by all the native title groups who sign the Regional Agreement. For the first five years, only native title groups who have final agreements with Rio Tinto Iron Ore can be members; after five years, other groups can apply to join (Yamatji Marlpa 2010).¹³¹

Had it not been for key mistakes made in the formation of Marnda Mia, the organisation might well have been in a position to become the Regional Aboriginal Corporation and an active and effective representative for at least a number of Pilbara Aboriginal groups. People wanted what the CNC had come together to achieve. But central to those mistakes was the disconnection from most of its constituent groups. A critical aspect of this was the failure to ensure essential authorisation from and accountability back to the groups. When this occurred, it lost its claim to cultural legitimacy (paper 1). Instead of from the groups, the principal support for the organisation came almost exclusively from its external sponsor, an eventuality being risked by the Roebourne Aboriginal Congress.

¹²⁸ The then CEO's enthusiasm for an airline may have arisen from a previous role as Town Clerk for Ngukurr, in South-east Arnhem Land, and his experience with Ngukurr Air.

¹²⁹ Interview with Rio Tinto Iron Ore management, Perth, 23 and 24 May 2011.

¹³⁰ *The Australian*, Paul Cleary front page story, June 3, 2011; Yamatji Marlpa Aboriginal Corporation Newsletter, Issue 14, June 2011. A fifth agreement with the Ngarluma Aboriginal Corporation was also finalised (paper 2), but NAC is not represented by Yamatji Marlpa. Interestingly, the pressure from Rio Tinto for these agreements to be signed meant that the groups involved did sign them before the end of 2010. Rio Tinto itself did not then finalise its own signing for another three to four months.

¹³¹ The terms of the agreement are cited with the permission of the Yamatji Marlpa CEO.

For Marnda Mia, this situation was compounded by the exclusion of Yamatji Marlpa which, as the Native Title Representative Body that had originally auspiced the CNC, also has the organisational and on-the-ground experience in maintaining communication with and input from each of the groups. With the loss of that connection to all the groups, Marnda Mia effectively rejected the principles for cultural legitimacy essential to its survival. The new Regional Aboriginal Corporation and its Implementation Committee will be able to draw on Yamatji Marlpa's experience both in achieving and monitoring the regional standards and in advocating for better services from government. With Rio Tinto as well as limited native title group membership, however, it is not the desired regional Aboriginal voice. For that, it is necessary to look elsewhere.

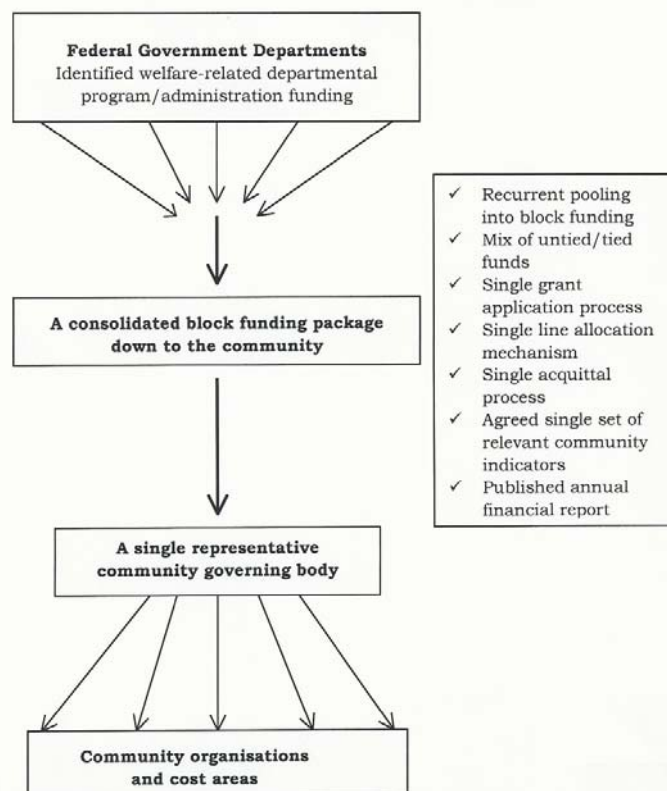
5. Possibilities

There is as yet no organisation or body in the Pilbara undertaking a regional governance role. There are, however, a number of successfully aggregated community-based organisations, including native title prescribed bodies corporate, that operate across the region or parts of the region or across more than one language group. These offer the prospect of a network of grass-roots bodies that, as one possible model, might be linked in some form of regional authority where

the transfer of responsibilities coincides with the transfer of power and capacity to legitimate, representative institutions. Devolution can give a practical form to corporate or geographic autonomy...It involves the creation of relatively autonomous realms of authority, responsibility and entitlement, together with accountability to local constituents (Smith 2002: 4).

Smith outlines one model of how this might work, taking welfare funding as an example (2002: 21):

Fig. 1. The proposed flow of identified welfare funding to the community

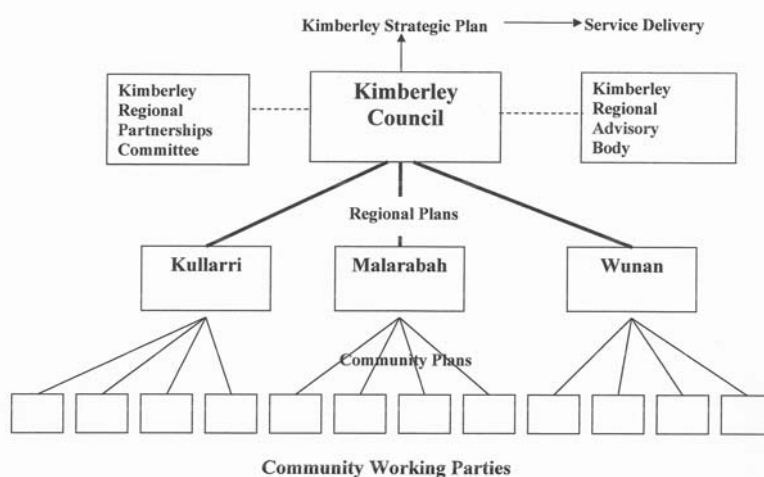


One of the advantages of this model – although for a full governance model, the arrows would go both ways – is that

it responds to the culturally-based preference for *both* local autonomy and wider forms of collective interdependence...A particular advantage of the model is that it distributes different forms and degrees of accountability across layers, thereby spreading the workload entailed in devolution, and enables 'two-way' accountability to be reinforced (i.e. internal or vertical accountability to Indigenous constituents at different structural levels, and external or horizontal accountability across to public and private sector institutions and levels of government) (2002: 26).

The principles on which Smith's model is based are congruent with those proposed by the Kimberley Wunan Regional Council in its submission to the Senate Select Committee after the abolition of ATSIC (2005: 7):

5. THE PROPOSED MODEL OF REGIONAL GOVERNANCE



A 3-tiered model of Regional Governance

As the diagram indicates, the proposed model centres on the creation of a new peak body – the Kimberley Council. It also builds in the existing ATSIC Regional Councils and the current regional boundaries. In addition, each Regional Council should develop a system of Community Working Parties, based in each of the key communities or wards, responsible for drawing up a community plan for each local area.

The aim of this model is to create an effective planning process that reaches from grass-roots communities and Regional Councils to government, with the Kimberley Council as key negotiator and coordinating body.

Smith's model refers to Central Australia, the Wunan Regional Council's to the Kimberley. Nevertheless, the principles underlying each are the same and apply equally to the Pilbara, with a networked approach and the principle of subsidiarity central to both regions.

At the same time, the implementation of those principles must be adapted to the particular local circumstances, as the 2011 Report of the Indigenous Implementation Board makes clear in its recommendations for regional governance (2011: 31ff). At the same time, the Report stresses:

The Pilbara region itself and Pilbara Aboriginal people are under immense pressure from the expansion of the resources sector...Land access agreements and heritage agreements and related activities such as surveys and negotiations have occupied many of the Pilbara's key leaders and elders and the majority of other leaders are employed by industry, government or in Aboriginal organisations and businesses which themselves are extremely busy dealing with the impacts of growth or its opportunities.

The relatively limited amount of determined Pilbara region native title and the negotiation pressures on claimants and representative bodies means that the Pilbara is several years behind the Kimberley in reaching the level of stability to be considering aggregated Aboriginal representative structures (2011: 37).

The Report goes on to state that 'it is therefore considered premature to seek to define a regional governance model at this time for the Pilbara' (2011: 38).

Despite this qualified assessment, DIA is working with Pilbara Aboriginal people and groups to develop Pilbara governance reform, as the Indigenous Implementation Board's report sets out (2011: 38-39). This is in response to the resolution passed by Aboriginal people in attendance at the first Pilbara Futures Forum in 2010 (about 200), to support in principle a 'one voice/s' representative/regional body (DIA 2010a: 4). In this instance, the support for a representative/regional body was specifically to progress the governance reform project, but it echoed the unanimous resolution made a year earlier at the Indigenous Implementation Board's Pilbara Dialogue 'that a Pilbara Indigenous one stop shop (the governance hub referred to earlier in the workshop) be created to speak to all levels of government' (2009: 11; and cf paper 1). The preliminary steps being undertaken towards this include Pilbara 'Tribal Nations get-togethers',¹³² moves towards the reinstatement of a Pilbara Council of Elders (previously convened by DIA), and DIA working with native title representative bodies to look

¹³² The terminology of 'Tribal Nations' is itself subject to further consultation and discussion (meeting of remoteFOCUS team with Aboriginal community members, Port Hedland hospital, 21 July 2011).

at best practice (2010b). To date, 'get-togethers' have taken place in Roebourne, Onslow, and South Hedland (DIA memo 23 August 2011).

The process has met with some difficulties, including the ubiquitous challenges of providing information to community members, but also the submerging of this project within the multiple demands of other DIA responsibilities, and the relatively marginal status of DIA within the State departmental hierarchy. These problems have delayed, but not derailed, the project. Not all of them arose from what the Futures Forum acknowledged as the current Pilbara Aboriginal political and native title environment. It was also recognised that 'DIA and government people involved, while fully committed, will not always have the supports and backing etc. from other government colleagues at various levels and this may place them in a...risk situation' (2010a: 6).

Nevertheless, there are functioning Aboriginal organisations that already offer the promise, as yet incipient, of an aggregated Aboriginal representative structure. The organisations mentioned here are examples only, not a comprehensive list; but they demonstrate some of the ways in which the principles of local autonomy, wider forms of collective interdependence, subsidiarity, two-way accountability, and cultural legitimacy are being successfully practised.

6. Some Pilbara examples

6.1 Yamatji Marlpa Aboriginal Corporation

The native title representative bodies and, where there has been a native title determination, their prescribed bodies corporate, are structured to provide representation from their various component groups. Yamatji Marlpa Aboriginal Corporation (YMAC), for example, has a separate Pilbara Regional Committee representing Pilbara native title claim groups.¹³³ The native title claim groups, in turn, each have a working group made up of elected representatives who have authority to speak on matters relating to country, and who nominate a representative to the Pilbara Regional Committee. Although YMAC covers the Murchison and Gascoyne (Yamatji) regions as well as the Pilbara, this structure is now fairly standard for native title representative bodies. Among many other activities, YMAC assisted in the formation in 2009 of the Pilbara Indigenous Marine Reference Group that has brought together six of the coastal native title groups to work with relevant government agencies for the protection of coastal and marine

¹³³ A restructure of YMAC in 2008-2009 subsumed the Pilbara Native Title Service (PNTS) into the broader organisation, although the practical impact of this, apart from the loss of a separate name, appears to be minimal and the regional offices and staff remain.

zones that are being, or are in imminent danger of being, damaged by development (see paper 2).

Importantly for moves towards developing a representative regional body, YMAC and the DIA are now working collaboratively on the Pilbara leadership and governance project. YMAC is leading work on the structure model under native title and DIA on that for the community. YMAC will continue to be involved as the project develops (DIA memo 23 August 2011).

6.2 Ngarluma and Yindjibarndi Foundation Ltd

On a smaller scale, the Ngarluma and Yindjibarndi Foundation Ltd (NYFL), set up as part of the 1998 agreement process with Woodside and the North West Shelf venture partners (cf paper 2), has a Board elected from the Ngarluma and Yindjibarndi native title holders, as well as a Woodside appointee and independents. It has entered into a number of successful commercial joint ventures, including a 2011 one with contracting company NRW and the Eastern Gurruma business arm. Unlike the Roebourne Aboriginal Congress, which has foundered on the Yindjibarndi internal split over the dispute with FMG, the NYFL Board, including the Yindjibarndi Directors, signed off in July 2011 on a joint venture contract with FMG's Solomon project. It is reported that the Board's meeting was 'lively rather than heated'.¹³⁴ The contract is for eighteen months drilling and blasting. The beneficiaries are to be not just Ngarluma and Yindjibarndi but other local Aboriginal people.

With other commercial ventures, NYFL's income has diversified in five years from around 90% from Woodside in 2006 to less than 30% in 2011. The organisation started with around two to three hundred members and now has more than fifteen hundred, a development that, like the big increase in Gumala member numbers (paper 3) suggests that NYFL is providing outcomes that people want.

6.3 Ashburton Aboriginal Corporation

A locally based organisation that now operates on a Pilbara-wide canvas is the Ashburton Aboriginal Corporation (AAC).¹³⁵ This was formed in 2000 'to provide direct relief from poverty, sickness, suffering, destitution, misfortune and homelessness to all Aboriginal and Torres Strait Islander people of the Ashburton Shire area of Western Australia'. The Board is made up of ten Aboriginal Directors, drawn from across the Shire, and two independents. The Shire itself stretches from Onslow on the coast across to the border of the East Pilbara Shire. It includes the

¹³⁴ Interview with NYFL CEO, Evan Maloney, 22 July 2011.

¹³⁵ The information in this section is based on an interview with AAC CEO, Janet Brown, Tom Price, 27 May 2011, and the AAC Annual Report 2009-2010.

towns of Onslow, Tom Price, Paraburdoo, and Pannawonica and some eight Aboriginal communities.

When AAC was first set up, it was a local CDEP provider. In 2005, it had 109 CDEP participants and four staff. In 2007, one hundred people were moved through to employment. In the same year, as part of the changes to the CDEP (see Marsh 2011: 2ff), the government approached the Board to take on the Western Desert region. And the same year also, the AAC Board undertook its first major strategic planning exercise, positioning the Corporation for the post-CDEP situation and the need to develop programs that would move the organisation from dependence on CDEP. In the interim, other Pilbara CDEP service providers like Ngarliyarndu Bindirri Aboriginal Corporation in Roebourne and Pilbara Meta Maya Regional Aboriginal Corporation in Hedland lost this role. As from 1 July 2010, AAC is the only provider of CDEP services in the Pilbara, to three central region towns and communities, four coastal region communities, and all four Western Desert communities. Its CEO, Janet Brown, is a member of FaHCSIA's CDEP Consultative Group.

AAC also has funding from the Indigenous Employment Program (IEP). In July 2009, AAC was awarded an Indigenous Job Services Australia contract. In 2010, it was asked by Job Futures to take over their Pilbara services contract from Marnda Mia. It now has a 55% job market share across the Pilbara. In addition to direct employment services, AAC established Pilbara Training Services, which has a Memorandum of Understanding with Pilbara TAFE and is now a Registered Training Organisation. In 2006, the organisation embarked on a biodiesel production program, collecting used cooking oil from towns such as Port Hedland, Newman, Karratha, and Roebourne and mining camps like BHP's Area C and Rio Tinto's Hope Downs and West Angelas. By 2010, the amount collected was around 5000 litres per week. The oil is processed in the ASHOIL plant opposite the AAC office in Tom Price and in 2009, ASHOIL Pty Ltd was formed as an AAC subsidiary. Royalties for Regions funded \$145,000 towards the project and AAC has entered into a supply agreement with Rio Tinto to supply between 5000 and 7000 litres per week of bio fuel for their drilling and blasting operations. There is also a biodiesel manufacturing unit at Punmu and the organisation is able to supplement its own extensive vehicle fuel needs.

The concern to provide an alternative to diesel fuel has generated another AAC initiative. In 2009, AAC submitted an expression of interest to the Department of Regional Development and Lands about Pilbara water opportunities arising from increasing mine dewatering as technology allows resource companies to mine below the water table. Although considerable amounts of this water are pumped back into

the mine as part of the dust mitigation process, there is still a surplus.¹³⁶ The AAC proposal involves using this surplus water to grow high yield, fast-growing crops for biodiesel. One of these is the moringa tree from India, which is also a traditional food plant. The other, slower-growing tree, is the pongam, also from India. The AAC is undertaking seven 'field to fuel' trials, some of which are in the Western Desert communities. The aim is to move to fuel sustainable communities if the trials are successful. Again, Royalties for Regions was an important contributor, with \$150,000 funding towards the planting project.

By 2010, the organisation had fifty staff, with offices in Tom Price, Hedland, Roebourne, Newman, Onslow, and Karratha. Full-time CDEP staff are based in Marble Bar, Parnngurr, Jigalong, Onslow, and Punmu and part-time staff in Kunawarritji, Onslow, Nullagine, Yandeyarra, and Tom Price. Warralong, one of the Strelley group of stations, has a local supervisor and gets visited regularly. According to the AAC CEO, Janet Brown, staff on the ground in the remote communities – 'grunt on the ground' – is the most important element for the success of the organisation's programs. Without that, there would be nothing.

The achievements of AAC in the past six years are nothing short of astonishing. Crucially, the organisation demonstrates the two connected elements that Hunt and Smith identify as necessary for governance arrangements to gain cultural legitimacy: 'proper' representative structures and decision-making processes, and practical outcomes for its members ((2007: xiv-xv; and papers 1 and 3).

In the case of the AAC, it is perhaps the second of these elements – the delivery of outcomes – that feeds into and reinforces the first; while a committed, active, and regionally representative Board works collaboratively with a competent CEO and senior staff to give priority to projects that reflect the aspirations and concerns of Aboriginal people.

The AAC does not profess to offer a model of an aggregated organisation that might form the basis of a regional body, but it does operate within a working network of partnerships with other organisations, both Aboriginal and non-Aboriginal, and with government. It works with KJ on Martu programs and Gumala on training. Roebourne's Ngarliyarndu Bindirri is partnering with AAC in its own biofuel pilot project. This is being run at the Roebourne Regional Prison's Decca training facility on the Harding Dam road as part of the horticultural program, with moringa trees planted as another trial. The program is also given support from Rio Tinto and government. The AAC has a Memorandum of Understanding with the Shire of

¹³⁶ The issues arising from dewatering have caused concern both to some Aboriginal groups and environmentally, but these are not matters for the present discussion.

Ashburton and the Shire's CEO, Jeffrey Breen, is one of the two independent Directors on the AAS Board.

The AAC is a signatory to a Regional Partnership Agreement (RPA) on Indigenous employment in Ashburton/Roebourne but, despite the parties including other Aboriginal organisations, industry, local government, and the State and Federal governments, this has not proved very effective, perhaps because, despite its local and regional orientation, no one party has direct responsibility – although the Ashburton Shire has reached around 20% of Indigenous employment for its own workforce – or perhaps because other programs are achieving more for employment than is available through an RPA.¹³⁷

Certainly, the AAC has demonstrated that it is not fazed even by what is clearly the policy turbulence around the CDEP program. Instead, they have responded by developing a timely strategic plan based firmly on Pilbara Aboriginal people's aspirations and capabilities. And because, as the AAC CEO puts it, the response to policy turbulence has been 'to tailor-make solutions from our own areas. It's up to us.' The AAC offers an enticing model for the effectiveness of place-based decision-making, and how locally-based Aboriginal organisations can become the basis for a network of regionally-oriented governance.

6.4 Trusted outsiders

The Introduction paper sets out the relevance of this factor. In the discussion about Pilbara Aboriginal organisations – though it has more general applicability – it is that all entities of government, business, and regular organisations are served by a cadre of professional administrators to advise and implement the decisions of a governing body. Aboriginal organisations need to be served in the same way. That is, not all actors in an Aboriginal organisation need to be Aboriginal and, as these papers make clear, are not. The key issue is that the essential decision-making is carried out by the relevant Aboriginal people. In the effective Pilbara Aboriginal organisations discussed in this series of papers, this is emphatically the case.

7. A proposed Indigenous Community Development Corporation

As discussed in paper 3, one of the submissions in response to the Treasury Consultation paper – *Native Title, Indigenous Economic Development and Tax* – and the joint Attorney-General and Minister for FaHCSIA's discussion paper –

¹³⁷ This is not the case with Groote Eylandt where the communities themselves, through the Anindilyakwa Land Council, seized the opportunity offered by the RPA to negotiate major changes and concessions with both BHP and the NT and Commonwealth governments (Westbury 2010:11).

Leading practice agreements: maximising outcomes from native title benefits – came jointly from the Minerals Council of Australia and the National Native Title Council. The submission proposed ‘a more effective approach’: an Indigenous Community Development Corporation. It should be noted that, although the attention of the Tax Office was originally drawn by the East Kimberley Argyle agreement to the use of charitable trusts as the mechanism for native title benefits, its interest was acutely honed by the level of financial benefits associated with Pilbara native title agreements with resource companies.

The proposal is not designed specifically to operate at a regional level but implies the possibility, with beneficiaries to include both traditional owners and ‘Indigenous peoples in a community who do not have stator entitlements applicable to the relevant area’ (2010: 18). The basis of the joint proposal appears to be akin to the model of the Aboriginal Benefits Trust (now the Aboriginal Benefits Account) in the Northern Territory, together with an assumed willingness by native title beneficiaries to contribute at least part of the financial benefits they have so recently achieved as part of an agreement or agreements. The implied expectation is that, in a region such as the Pilbara, the native title groups would agree to a joint organisation funded directly by their benefits but over which they would have only limited control. Based on the experience of the Rio Tinto Marnda Mia experiment, among other examples, there is no prospect of this being acceptable to Pilbara groups, at least for now. The trusts being currently established to manage the financial benefits all provide for inter-generational benefits: to the detriment, many native title group members would argue, of exit from poverty of the present generation.

The question is whether a present reluctance of native title agreements beneficiaries to contribute to a body such as a Pilbara Indigenous Community Development Corporation should be an impediment to the establishment of a Pilbara Aboriginal regional body. Based on the previous discussion, the answer is most likely to be ‘no’.

The formation of partnerships based on shared Aboriginal concerns, or needs (Sullivan 2011), like the Pilbara Indigenous Marine Reference Group, which has had regular contributions from the time of its formation from six of the member groups (Pilbara Indigenous Marine Reference Group 2010: 6), indicates the willingness of local Aboriginal people to look beyond their immediate concerns to a broader set of issues and groups (see paper 2). The crucial issue is that these are voluntary, not mandated, contributions; and they express Aboriginal concerns or needs, not those of government or external interests. One of the challenges for the establishment of a Pilbara regional body, including the possibility of broader benefits from native title agreements, will be to ensure that the regional body is truly representative of Pilbara Aboriginal people’s concerns and has sufficient cultural legitimacy to be effective. And its funding base needs to derive, at least in part, from the successful

economic activities being undertaken by community-oriented as well as native title organisations.

8. Possible place of a representative Pilbara Aboriginal regional governance body

Key questions for the Pilbara remoteFOCUS project are: on the basis of the evidence provided in these case studies, what are the strategic and positive ways for Aboriginal people to pursue their aspirations through engagement/involvement in broader governance reforms in the Pilbara and the associated investments occurring in the region? Specifically, what are the ways for Aboriginal people to draw the greatest benefit from developments in the Pilbara and the establishment of the Pilbara Cities agenda? How might it be possible to change the situation of Pilbara Aboriginal people from the marginalisation and poverty created by earlier mining booms (Taylor and Scambary 2005) to one where they participate in the current prosperity? And what barriers would they face, including overcoming the identified problems of education and health?

The message from Aboriginal people, repeated so consistently as to be almost trite, is partnership: people wish to act, not be acted on. And there are two main channels through which they express this: affirmation of place, and engagement through organisations. Both have been covered in earlier papers. Here, the challenge is to align them with current overall Pilbara planning and development, particularly with government investment in Pilbara Cities.

In a paper, 'Pilbara cities: from projects to places', Newman *et al.* (2010: 1) discuss the 'two, four and ten' of creating cities in the Pilbara: the two challenges to this transition – remoteness and resilience; the four themes for enabling the transition of project towns to good cities – economics, infrastructure, planning and 'placemaking', and governance; and the ten practical solutions to allow this transition to occur for the towns of the Pilbara.

The whole of their analysis is relevant to the remoteFOCUS Pilbara project, and several aspects particularly to the question of Aboriginal engagement and governance. Of their four themes, 'economics' includes development and diversity; 'infrastructure' refers to both social and physical infrastructure; and 'governance' stresses that this is needed at regional, state, and federal level 'to ensure that confidence in developing cities with a long-term future is clearly enunciated and acted upon'. On that basis, they recommend the establishment of some new regional governance structures (2010: 4).

8.1 Economic development and diversity

The question of economic development is obviously not at issue: as a recent Kudelka cartoon had the exchange between disembarking Chinese businessmen: 'It's great to

finally visit the quarry'. 'The locals prefer it to be called Australia.'¹³⁸ The issue of diversity for the Pilbara is much more challenging and is one of the areas of concern for planning. The case studies make clear that diversity is a priority for Aboriginal people. Modest as they may be compared with the juggernaut of resource development, many of the successful enterprises being undertaken across the Pilbara focus on caring for country, environment, sustainability, and community viability. They are about the Pilbara as a place for the future, not just for the present.

From this point of view, the emphasis on employment for Aboriginal people needs also to diversify. Employment is essential, and both the resource companies and government have made serious commitments to promote employment, with a number of Aboriginal people taking up positions in the various mining companies. Often, however, this is not the kind of employment that people want, or have the capacity, to undertake. The issue remains a crucial one, but some of the successful programs being run by Aboriginal organisations – including the use of CDEP while it lasts – provide indications of how productive employment might develop outside and beyond the resource industry.

8.2 Social infrastructure and 'placemaking'

Pilbara Aboriginal people already have what the Pilbara Cities initiative is attempting to achieve: a sense of belonging based on relationships and the permanence of home. They embody the goal for long-term residence articulated by the Pilbara Cities' CEO, Chris Evans, in that they live and die in the Pilbara.¹³⁹

In terms of other aspects of social infrastructure, particularly health and education, these were identified by Taylor and Scambary as the two major impediments to Aboriginal people's engaging in serious employment (2005: 148-149; paper 1). The issue of education in particular is one that is being tackled by a combination of private and public sector partnerships: the Polly Farmer Foundation, for example, or the BHP Billiton and World Vision program for Martu people. And partnership, not control, is central to the success of these programs. The BHP Billiton partnership with the Australian Indigenous Education Foundation builds on the outcomes achieved earlier by the Polly Farmer *Partnerships for success* programs in order to expand its achievements (Australian Indigenous Education Foundation/BHP Billiton Partnership launch, 30 August 2011).

Other programs are also having modest success against a background of non-attendance or early drop-out by Indigenous kids: where 'nobody wants to stick in

¹³⁸ *The Australian* August 22, 2011.

¹³⁹ ABC Radio National, Saturday Extra, 6 August 2011 (Introduction paper and paper 4).

school. It's a big problem, shame... It's not doing much for Indigenous kids...' 'There's nothing here, nothing to help Indigenous kids to get into school-based traineeships. So I lost interest in school and left.'¹⁴⁰ Another small-scale response to this situation is a South Hedland program for young mothers, to get them out of the house to earn some money, not just receive 'baby money' but to work, to take one example, as life guards. For another young woman, the key is provision of opportunity: 'I was given the opportunity to study medicine at Newcastle University [where] there is an Aboriginal health unit, with a lot of us studying together...and community members instilling hope'. She has now graduated as a doctor and returned to work in Hedland.

A more comprehensive approach is being undertaken by the Department of Employment, Education and Workplace Relations together with the WA State Department of Education as part of the Closing the Gap strategies. In May 2011, a practitioners' forum was held to workshop the expansion of intensive literacy and numeracy programs for Indigenous students (www.deewr.gov.au). But there is no doubt that, if the education levels of Pilbara Aboriginal people do not improve radically, the dream of partnership and even diversity will become a chimera as they get yet again left behind by the urgencies of digging up – and digging out – the quarry.

Newman *et al.* make the point clearly:

Employing local people in the many jobs that are being created in the Pilbara will enable money to be retained in the region...Pilbara Cities will only thrive when they offer equal opportunities for Indigenous and non-Indigenous residents...There have been long-term shortages of skilled labour in the Pilbara so training facilities...need to be planned and built ahead of the demand instead of constantly being behind, as has happened over recent decades (2010: 5-6).

8.3 New regional governance structures

Although not going so far as suggesting a discrete body such as a Pilbara Regional Authority, Newman *et al.* do identify the need for a Pilbara Regional Plan with full statutory powers, citing the example of the East Perth Redevelopment Authority (2010: 8-10). Since their paper was published, the WA Planning Commission has produced the *Pilbara Planning and Infrastructure Framework* (2011). There is yet to be a body established with statutory powers. One of the remoteFOCUS reform principles is the establishment of a Commission for Outback/Remote Australia. If a

¹⁴⁰ Meeting of remoteFOCUS team with Aboriginal community members, Port Hedland hospital, 21 July 2011

Pilbara-specific Commission were to be legislated along these lines, it must include a place for Aboriginal engagement. The question then is, how should this happen?

Which brings us back to the central demand for partnership: there has been nothing in any of the consultations carried out recently to suggest that Aboriginal people support their direct inclusion in such a body. This is clear from the reports by the Indigenous Implementation Board, by the DIA Futures Forum, from Pilbara Dialogues, and from the more informal exchanges undertaken by remoteFOCUS. What Pilbara Aboriginal people want is equal partnership with government and with industry.¹⁴¹ This can be best achieved by the establishment of a representative Pilbara Aboriginal Regional Governance Body, building on the various levels and kinds engagement already being carried out at more limited levels and providing the opportunity to ensure that Aboriginal interests, concerns, and priorities are taken seriously and comprehensively. To be fully effective, it should have the same statutory support as any new Pilbara body such as a Pilbara Regional Authority.

This recommendation takes into account the Indigenous Implementation Board's comment that defining a regional governance model for the Pilbara at this time would be considered premature (2011: 38). It is not the purpose of remoteFOCUS to 'define' the model, but to provide evidence of what works and what does not and, on that basis, to set out the possibilities. The case studies support the timeframe suggested by the Indigenous Implementation Board for 'building governance capacity and investing in future leadership skills', with a view to possibly implementing a new regional governance structure after the majority of land-access agreements are concluded, the date for the latter being suggested as 2012.

The DIA and YMAC Pilbara Leadership and Governance Project is already moving towards developing a regional governance model, a process that will also take time, and needs to do so, though without unnecessary prolongation, if it is to get it right; an essential dimension of getting it right being that such a body has cultural legitimacy. The case studies demonstrate that this is not easy; but also that it is not impossible, and that the principles on which it would need to be based are already clearly identified, including through this series of remoteFOCUS papers.

The need to take time, however, and the distractions caused by the demands of other departmental priorities and diversion of resources, throws up the problem of consistency of purpose, not just locally but specifically by government. If this is to work, there is no room for policy turbulence or, on the ground, for people turbulence. Another of the remoteFOCUS principles is to ensure the continuity and

¹⁴¹ The same very strong message was given by national Indigenous leaders in a Governance Workshop organised by the Attorney-General's Social Inclusion Division in Canberra in April 2010.

effectiveness of public servants servicing remote Australia. The Newman Report notes the following:

There is a perception that government service delivery is ineffective, and that government acts only when required, putting out 'spot fires' while ignoring the building of capacity of any given community, including mainstream in the Pilbara. This perception is born out of the 'temporary' public service arrangement in the Pilbara where a 2-3 year stint can be undertaken in an environment of 'not wanting to rock the boat', where officers at the regional level who are highly committed often become 'burnt out', are unable to make decisions at the ground level and/or have difficulties getting the real message heard at a higher or political level; and where all good intentions that are achieved or put in place are often erased by the following officer (Shanks 2011: 10).

Current DIA officers working on the Leadership and Governance project are highly committed and prepared to rock the boat. The success of the project demands that they be given the strongest support at both departmental, inter-departmental, and government level.

8.4 Responsibility of government

The principal responsibility for achieving an effective Pilbara governance that provides real partnership with Pilbara Aboriginal people lies squarely with government. Many (though not all) of the resource companies have shown practical willingness to contribute to Pilbara community development, including Aboriginal community and individual development. To a large extent, they, rather than government, have provided the environment and support for partnerships to develop. To take just one example, the Woodside Conservation Agreement has led to the participation of Big hArt in Roebourne and the development of the *Yijala Yala* community partnership (paper 2). In many instances, resource companies have replaced government funding and support; the experience from Roebourne Regional Prison's education program is that the budget from the Department of Corrective Services has been cut annually and that the viability of the program, including the Decca Training Facility programs, are only possible because of the support of Rio Tinto.¹⁴² This should not be the case.

With the establishment of the Royalties for Regions programs and Pilbara Cities, the State Government has shown a willingness to reclaim its responsibilities. The DIA Leadership and Governance project is being undertaken in collaboration with Pilbara Cities and a number of the recent successful projects undertaken by Aboriginal organisations have had funding from Royalties for Regions. These are

¹⁴² Interview, Roebourne Regional Prison, 19 July 2011.

just two of the many areas of necessary engagement by government, whose departments tend to remain, on the whole, metropolitan-centred. One of the recommendations by Newman *et al.* in their '10 mechanisms for transition' is for a WA Government Department of the Pilbara to be located in Karratha (2010: 9). This would certainly help to maintain government attention on the social, not just economic, dimension of the Pilbara. As Westbury quotes: 'Regional Australians...will be looking for governance arrangements that maximise decision-making and accountability in the local area – where they are comfortable – not back in Canberra [or Perth] where we are comfortable' (2010: 16). But, with the pace of development, and government unwillingness to moderate it, this is unlikely to be sufficient.

Nevertheless, government has a key role to play in supporting the development of a viable Aboriginal regional governance body to work in partnership with any new Pilbara governance body, without moving to control it. When that goal is achieved, it may well be that Pilbara Aboriginal stories, so central to Aboriginal culture and identity, and to their rightful place within Australia, become integral to a national story that includes remote Australia.

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16.

Loyalty for Regions: Governance Reform in the Pilbara

**Report to the Pilbara Development
Commission**

August 2012

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Executive Summary

This Pilbara report is a companion report to the remoteFOCUS report titled 'Fixing the Hole in Australia's Heartland: How Government needs to work in remote Australia'. It is specific to the Pilbara region in Western Australia, however, it draws on the national conversation, analysis and findings of the remoteFOCUS project. (see box following this executive summary for a brief summary of the national project findings.

In short the remoteFOCUS report confirms the initial diagnosis outlined in the remoteFOCUS Prospectus '*remoteFOCUS: Revitalising Remote Australia*' that remote Australia is in dire trouble, and that the way governments engage with, administer and govern remote Australia is at the heart of the problem. The plethora of programs, plans and interventions, the disconnection and uncoordination between the tiers of government and the dissatisfaction and disengagement of remote citizens, attest to this reality.

The Pilbara on first glance appears to be at the other end of the remote Australia spectrum being unique in its environment and economic features and the scale and nature of the challenges and change it faces. Yet it shares much in common with all of remote Australia when it comes to matters of governance

The remoteFOCUS report clearly shows that there is a uniformity of diagnosis from the community, government and academe that change is needed and despite well intentioned attempts to respond to this concern, efforts have continually fallen short. The public service has responded by working harder and endeavouring to respond in a more coordinated way. And while the focus of considerable effort across remote Australia has been to address Aboriginal disadvantage, the diagnosis is not unique to them, and affects all residents of remote Australia. This is an issue of about how governments work – not something caused by the people of remote Australia. Systemic change is needed.

The remoteFOCUS report outlines a new approach to governing remote Australia based on establishing structures with a capacity to mediate and develop partnerships between the various tiers of government and community and Aboriginal governance structures. It establishes principles for effective long-term governance and outlines them in a practical framework for governance reforms so that the tough problems that bedevil remote regions can begin to be addressed effectively. It asserts that centralised executive responses will not address the underlying governance dysfunctions that drive government failure to meet the needs and aspirations of remote Australians.

The Pilbara on first glance can appear to be unrelated to this diagnosis being unique in its environment and economic features and the scale and nature of the challenges and change it faces. Yet it shares much in common with all of remote Australia when it comes to matters of governance.

This remoteFOCUS Pilbara report sets out a brief overview of the changes taking place across the Pilbara and the work of government and the community in addressing the consequences of that change.

In the Pilbara a valuable start has been made by the WA Government. Royalties for Regions is a unilateral (that is, state) policy which addresses the traditional failure to provide financial resources to regions sufficient to meet their legitimate needs and aspirations. Pilbara Cities is again a decision by the state to establish unilaterally a unifying vision going beyond ad hoc responses to particular issues. The next step is to build loyalty to the region - to ensure each level of government and the different Pilbara communities are on the same page - but this cannot be done unilaterally. It needs the political leadership of all levels of government and the various elements of community in the Pilbara to agree to the need for the sort of approach set out above. Of particular concern is the incorporation of Aboriginal interests into this process through their established representative structures.

The report investigates in some detail the issues surrounding Aboriginal opportunities for partnership and their need to engage and be engaged by the changes that are taking place and outlines the challenges involved in developing a governance model that works for all residents of the Pilbara.

Planning processes cannot be regarded as legitimately 'settled' without achieving satisfactory inclusion of Aboriginal perspectives and interests.

The principles and framework for effective long term governance in remote Australia, as developed and set out in the remoteFOCUS report, are explored in a preliminary way by working through the six primary steps to establish the context; design parameters; principles, scope and mandate; functions; form; and accountabilities required to establish a governance design for the Pilbara.

The report finds there needs to be a regional governance authority, though many details about its precise role and functioning require more work than has been possible within the scope of this study. These details will be critical to the effectiveness of any agency – and the design needs to be consonant with the views of a complex array of stakeholders.

The test of whether new arrangements will improve governance in the Pilbara is that a newly created body has the **authority**, **effectiveness**, and **legitimacy** that allow

it to respond to the nature and pace of change in the Pilbara and the contest of positions in response to change.

Such a body would need, by its composition and legal structure, to be above the contest and endure over time and be mandated to:

- Establish a shared vision between government and community for the Pilbara region,
- Negotiate compacts that provide clear mandate of responsibilities and a common platform for accountability at all levels of governance across the Pilbara,
- Foster place-centred solutions and regional innovations, and
- Ensure resourcing for functional capacity.

It may be possible to achieve this outcome through an adjustment of some existing structures, however, we argue that the mandate and function proposed for such a governance body suggest a fresh start should be made.

One approach would be high level political support to establish a Pilbara trial where the principles and approach outlined in the report are applied, with the specific aim of developing an on-going process of learning, consensus and regional capacity building - a starting point with a defined scale and scope. This will build momentum for change as required and potentially provide “proof by good example” of the efficacy of such change.

The voices of community legitimise concerns for politicians to respond to. In their own way community concerns provide the mandate for political leadership.

Continuing community articulation of why their concerns persist and how the current system of governance appears unable to resolve these concerns is a fundamental condition precedent to establishing a mood and appetite for positive reform in the Pilbara.

It is now not a case of not knowing what to do, rather a case of having the collective will to do it. Only political and civic leadership will drive the necessary reforms.

‘Fixing the Hole in Australia’s Heartland: How Government needs to work in remote Australia’.

The report titled ‘Fixing the Hole in Australia’s Heartland: How government needs to work in remote Australia’ advances five propositions, responding to two primary questions:

(a) What is going wrong in remote Australia?

1. Remote Australia is confronted by common issues and these issues are globally familiar though extraordinarily diverse and complex local challenges. They are common to regions where people reside remotely from centres of economic and political power but are facing rapid social and economic change.
2. While it is important to recognise the limited influence that public policy can have on some aspects of these issues, present governance arrangements which have developed incrementally over 20 years or more are not well attuned to the current circumstances and emerging trends in remote Australia.
3. In the absence of a nationally accepted narrative that embraces micro-economic reform and establishes the national interest in remote Australia and a settlement pattern that supports that national interest, little is going to change, as initiatives will tend to be ad hoc rather than systemic.

(b) How can it be fixed?

4. There are many potential ways of remedying these structural governance problems, but the more promising prospects involve greater degrees - and varying patterns - of community engagement and decentralised governance. While this will inevitably take time, it is imperative that a start – a substantive start - be made. The general framework within which particular designs can be developed requires wide ranging regional engagement to resolve the specific application of these principles in particular locations. Application and details of the approach will differ from place to place and from time to time.
5. While there is some spasmodic attention on remote Australia (particularly on “crises” such as Aboriginal disadvantage, or as the social and personal fall-out of fly-in-fly-out workplace practices), normal politics and public administration are unlikely to achieve the structural reforms needed to

address these issues, and others. Special purpose initiatives will be required, and these will need cross-party political commitment and support from business, professional and community organisations.

We conclude that:

- Governance arrangements are a threshold cause of policy failure, and
- Policy for remote Australia needs to be separately conceived and framed, and “custom-built” to meet its specific circumstances and needs.
- The challenge in designing new approaches to governing and administering remote Australia is that a paradigm shift in policy is required - one that addresses and changes structurally embedded habits, practices, and approaches - and this cannot come from within the present governance framework.

The sense of disconnect and discontent with governance recorded in our extensive consultations across remote Australia is captured in the five things people have told us they want but don't get:

1. A say in decisions which affect them.
2. Equitable and sustainable financial flows.
3. Better services and a locally responsive public service.
4. Local control and accountability where possible.
5. Inclusion in a greater Australian narrative.

Accordingly, structural response to these concerns is required for successful governance.

The key outcome of the developing of new governance principles should be the creation of locally appropriate institutions that have sufficient authority, legitimacy and effectiveness to fulfil their functions. The current three-tiered system of government fails to do this adequately in remote Australia. In large parts of remote Australia Aboriginal organisations including Land Councils and Native Title Bodies provide effectively a fourth tier of governance adding to the complexity of arrangements.

The nature and pace of economic, social and technological change in remote Australia and the deep and consistent concerns expressed in our consultations with the people of remote Australia - and acknowledged in many government reports - necessitates creation of governance responses that meet the following principles:

- A structure or institution with the authority and legitimacy to create and sustain a vision for a region is needed.
- For solutions to dysfunctional governance problems in remote Australia to be lasting, they should incorporate '**negotiated compacts**' which adequately mandate institutions to mediate contests and reach durable agreements.
- Solutions are also likely to invoke **place centred responses and regional innovations**.
- '**Resourcing must follow function**'. This principle is less contentious, but is typically acknowledged only in the breach in Australian public policy.

Accordingly, it is proposed that with intense regional engagement, a governance reform process should be established, in six primary steps summarised by the following terms: context; design parameters; principles, scope and mandate; functions; form; and accountabilities.

- Only political leadership, such as that which produced an initiative and policy shift like Royalties for Regions in WA or mandated the NTER, but – importantly - aimed at systemic change to the way governments make decisions, operate and are accountable, will take us beyond a 'we-must-try-harder' mantra without regard to the efficacy of the system itself. This cannot be driven from within the bureaucracy, which is constituted within the status quo and bound by its rules. Political leadership needs to come to the conclusion that there is a system problem not a policy problem.
- Reform will be problematic unless the incorporation of Aboriginal perspectives is a non-negotiable condition precedent.
- Another significant opportunity would be for the Productivity Commission to investigate the capacity for such a governance reform to act as a micro-economic stimulant for remote Australia.
- The voices of community legitimise concerns for politicians to respond to. In their own way community concerns provide the mandate for political leadership. Continuing community articulation of these concerns is a fundamental condition precedent to establishing a mood and appetite for positive reform.

It is now not a case of not knowing what to do, rather a case of having the collective will to do it. The market will not define the national interest in remote Australia and its peoples. Only political and civic leadership will drive the necessary reforms.

It is easy politics to hide behind concepts of representational democracy and market economics and waive the needs of remote Australia in favour of the weight of public opinion and numbers in the serviced suburbs. For it is here where the majority of political leaders derive their authority and maintain their relevance. This type of neglectful inequality is corrosive for the nation and rots Australia from within.

The economic cost of deferring action or denial of reform is nationally significant. Investment now with a view to avoiding vastly higher costs both in terms of addressing disadvantage and relocation is prudent judgement in the national interest. There are aspects of our national interest and identity that we lose by making the wrong decisions over and over again or by neglecting to make a decision at all.

We know what this might cost but we don't yet know what this is worth as a nation.

What is the cost of this hole in Australia's heartland?

Is the current condition of governance in remote Australia good, fair and just? Is it right?

The remoteFOCUS Pilbara Project

The purpose of the remoteFOCUS Pilbara project is to position the Pilbara as a leader in the reform of government governance, administration and engagement with the aim of significantly advancing regional development through a more strategic, systemic and sustainable process. Growing loyalty for regions.

It was commissioned by the Pilbara Development Commission to initiate an urgent dialogue between the Pilbara communities, relevant government agencies and industry stakeholders to develop reforms that could improve the way governments interact with the region.

The remoteFOCUS Pilbara Project was established on the widely held assumption that comprehensive reform of governance was urgently required in order to improve economic outcomes, infrastructure and service delivery.

The need for special measures such as the Pilbara Plan and Royalties for Regions were taken as proof that ordinary systems of government were in need of reform in the Pilbara.

The project aims to develop reasonable alternatives and reform proposals that will enable the PDC to continue its efforts to provide well informed, coordinated advice to State government on Pilbara futures.

A number of initiatives have been made in the region since 2008 to co-ordinate various government, non-government, industry and Aboriginal stakeholders. The political environment has also changed somewhat. The Australian Government is pursuing the localisation of decision making through RDA's and in WA the advent of Royalties for Regions has provided opportunities to respond to regional issues with real money albeit within existing structures. However, it remains that the underpinning government legal and financial arrangements are such that co-ordination is too often impeded by competing or conflicting governance and administrative arrangements.

RemoteFOCUS was tasked to contribute to the PDC's Pilbara Dialogue to enable well informed, co-ordinated advice to State Government and other stakeholders on Pilbara futures. Broad ranging questions discussed included:

Where does the Pilbara story come from?

- Is the vision broader than being a region that produces wealth for the nation and the state?
- Who is responsible for creating and telling the story?

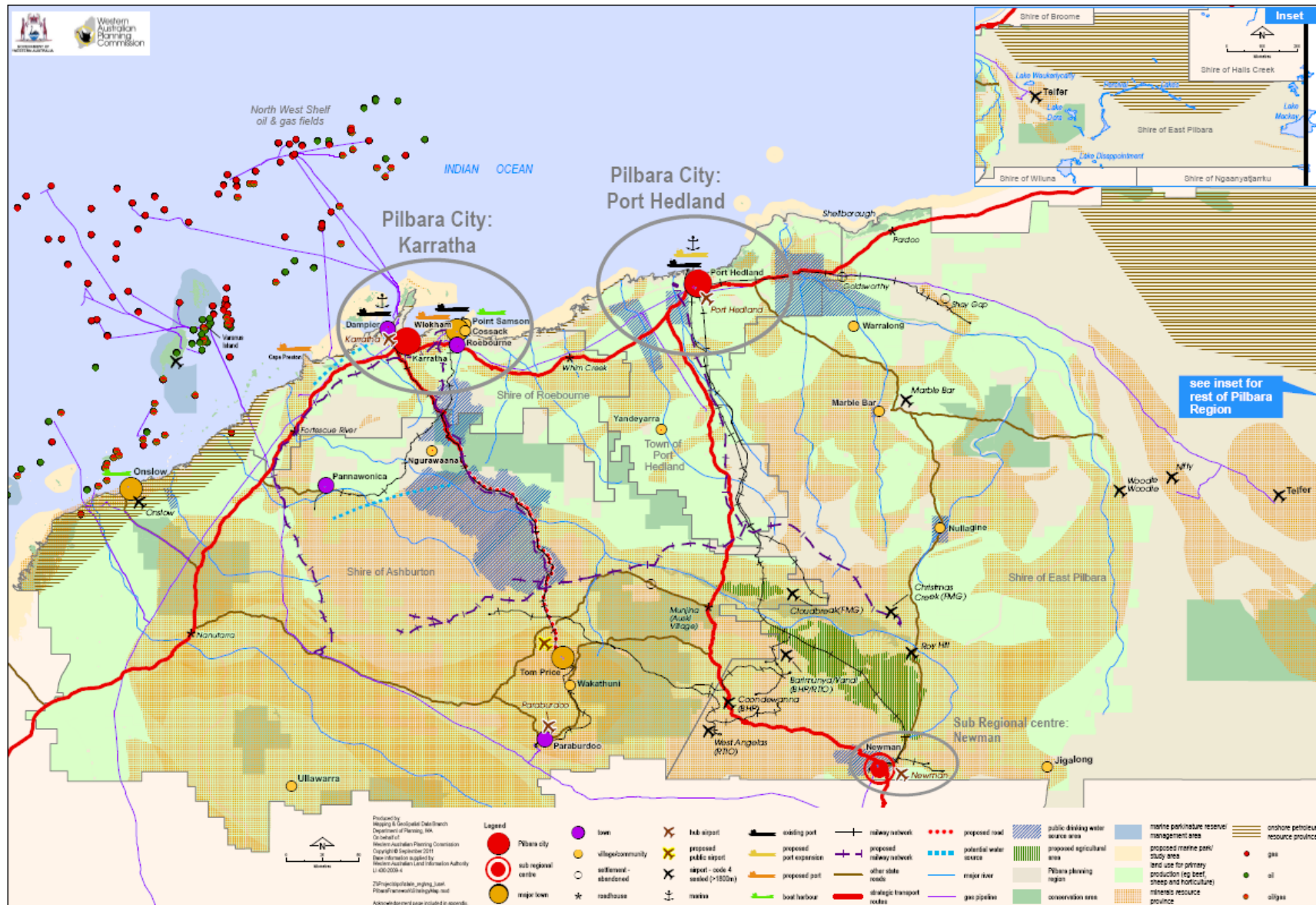
- Who are the community of interest?
- Should we view the Pilbara as a colony of the SW and SE of the country run primarily for the benefit of stakeholders elsewhere?

Is a new localism/regionalism realistic?

- Given the global, national and state significance of the Pilbara, what decisions can we expect to be made in the Pilbara?
- Are there ways that accountability for local outcomes can be localised?

How inclusive is the planning of the Pilbara?

- How do Aboriginal people tell their story of the Pilbara?
- How can they be included in the vision, services, accountabilities and cash flows of the region?



The Pilbara

Situated in the north west of Western Australia, the Pilbara is a mineral rich region of spectacular scenery thought to be around 2.8 billion years old. Often described as the engine room of the nation because of its immense reserves of natural resources, the Pilbara is also blessed with stunning natural beauty boasting striking landscapes and a rich and diverse cultural heritage.

The Pilbara covers a total area of 507,896 square kilometres extending from the Indian Ocean to the Northern Territory border (including offshore islands). The region comprises four local government authorities - the Shires of Ashburton, East Pilbara, Roebourne and the Town of Port Hedland and the established ports of Dampier, Cape Lambert, Onslow, and Port Hedland. Two further ports, at Anketell Point and Cape Preston, are under construction. The ports are some of the most significant national gateways to the global economy.

The recent 2011 census reports 59,894 people live in the Pilbara¹ comprising 36,882 males and 23,012 females. The median age is just 32 years and the population is made up of just under 10,000 families. In addition, this resident population is subject to the unique pressures generated by an extremely large Fly-In Fly-Out (FIFO) workforce. Already, in just two Local Government Areas (LGA's) (Ashburton and East Pilbara) the annual FIFO population is estimated at 29,000. Based on building licence approvals, there are presently 55,000 FIFO beds in the region as a whole and this will grow by at least another 33,000 in the next two to three years². At the same time a study by an Edith Cowan University School of Management research team estimates a 25 per cent annual turnover rate for the 50,000 fly-in, fly-out (FIFO) workers in Western Australia³.

Meantime, the LGA's argue that their rate bases do not allow the generation of funds necessary to deal with community pressures because of early commercial agreements between the State government and the major resource companies which preclude local government from effectively rating many of the major resource developments.⁴ For their part, the resource companies argue that the introduction of the Fringe Benefits Tax (FBT) made it uneconomical to locate workers at or near their operations.

The region can be separated into three distinct geographical formations, a vast coastal plain, breathtaking inland ranges and an arid desert region extending into Australia's dry centre. The Pilbara is a semi arid region characterised by high temperatures, low and variable rainfall and high evaporation. Temperature ranges are generally greater in inland districts away from the moderating effects of onshore winds common to the coastal districts.

Some of the Pilbara's most popular natural attractions are the Karijini and Millstream/Chichester National Parks with its spectacular gorges and waterfalls, Marble Bar and Cossack with their historical features, and the Dampier Archipelago for those interested in aquatic pursuits such as fishing, diving and other boating activities.

The region is also well known for its heritage assets and especially for Aboriginal rock art, of which there are spectacular examples throughout the Pilbara.

The Pilbara is of great economic significance to the nation with an economy dominated by the extraction, processing and export of minerals and hydrocarbons. The region has significant geostrategic importance to WA and national interests. It produces approximately⁵:

- 95% of Australia's iron ore
- 70% Australia's natural gas
- 85% of Australia's crude oil and condensate

The Pilbara Development Commission estimates the Gross Regional Product (GRP) of the Pilbara at 14 billion in 2011⁶. The mining sector accounts for 74.6 per cent of economic activity in the Pilbara⁷. The 2011 production value of Pilbara minerals and petroleum exports was AU\$86.2b. This figure has increased massively since 1999/2000 when exports were AU\$4.1b. The Pilbara also services the offshore Carnarvon Basin, Australia's largest known oil and gas reserve (21% WA total mineral's and petroleum value) in 2010.

The Pilbara accounts for 59% of WA's mineral and petroleum production value⁸.

Projects under construction are led by the \$43 billion Gorgon LNG project and iron ore developments in the Pilbara and the Mid West. Major iron ore projects include Hancock Prospecting's Roy Hill mine (\$6.7 billion), Sino Iron Project (\$6.2 billion), BHP Billiton's Rapid Growth Project 5 (\$4.9 billion), Rio Tinto's Pilbara expansion (\$3.4 billion), Gindalbie Metals Karara Magnetite Project (\$2.6 billion) and Fortescue Metals Group Solomon Hub Stage 1 Project (\$2.5 billion).

Outputs of other sectors in the Pilbara regional economy are led by sectors with strong links to mining. Mining and construction employ 49 per cent of all people employed in the Pilbara⁹

Commodity Values -Pilbara Region \$86.2b

Production Value of Minerals and Petroleum by Commodities – 2011

PILBARA REGION

Iron Ore	\$60.29b
Gold and Silver	\$1.006b
Copper	\$643m
Manganese and Salt	\$585m
Other	\$130m
TOTAL	\$62.66 Billion

PILBARA OFFSHORE

Crude Oil and Condensate	\$12.004b
Liquefied Natural Gas	\$9.344b
Natural Gas	\$1.400b
LPG Butane and Propane	\$745m
TOTAL	\$23.49 Billion

Source : WA Department of Mines and Petroleum 2011 WA Mineral and Petroleum Statistics Digest, June 2012.

Commodity Value – by Shire

PILBARA REGION

East Pilbara	40,131b
Ashburton	21,654b
Roebourne and Karratha	135m
Port Hedland and Marble Bar	743m
TOTAL	\$62,66b
Offshore Petroleum	\$23,49b

Source : WA Department of Mines and Petroleum 2011 WA Mineral and Petroleum Statistics Digest, June 2012.

Expansion in the resources, agricultural, tourism and fisheries sectors, along with complementary developments in the provision of services, are planned to transform the region from a 'residential quarry' to a desirable and resilient population centre.¹⁰

In an effort to expand the resident population and diversify the economic base, the West Australian Government has developed the Pilbara Cities vision. Government and industry have committed significant financial and political outlays largely through the state government Royalties for Regions program and the many resource developments mentioned above.

For the Pilbara Cities vision to be realised solutions to current and forecast challenges must be negotiated. To support the region's continued economic prosperity, a population policy that provides incentives to settle in the Pilbara is urgently required. The complex issues of Indigenous affairs and Native Title require continued focus and dialogue. Finally, current deficiencies in critical infrastructure, water and governance structures must be resolved¹¹.

A key question for the people of the Pilbara is whether the current governance arrangements are capable and fit for purpose in resolving the challenges and contests that arise from the compounding growth that both Pilbara Cities and the resource extraction industries will bring to the region.

Population, Development and Investment

The Pilbara is Australia's most important economic zone providing the most significant national gateways to the global economy. This region occupies 20% of the WA land area and produces more than 59% of the state minerals and petroleum revenue with the value of exports exceeding \$86.2 billion in 2011. 78% of royalties and taxes in WA are derived from these activities. The Pilbara is now home for just on 59,894 residents¹² or just on 2.1% of the WA population. Of this total around 6 000 or 16.9 % are Indigenous Australians (10.5 per cent of the WA Aboriginal population).

In the 2006 census, the resident population of the Pilbara was around 41,000. The Indigenous population – that also includes some Torres Strait Islanders – was 5,632 or 13.7%. Estimates of the total resident population for 2008 indicated a rise in the two years after the 2006 census of around 5,000 to nearly 46,000 and another 5,000 for 2010 to 51,000. Hence population increased by 15% over the seven years to 2008 an annualised growth rate of just over 2%.

In the recent 2011 census the Pilbara was the second fastest-growing Statistical District (SD) in the state, increasing by 2.7% (or 1,300 people) in 2010-11. Roebourne (S) was the LGA with the largest growth in this SD, increasing by 640 people (3.3%), while Ashburton (S) was the fastest-growing with an increase of 3.7%.¹³

The Pilbara Industry's Community Council (PICC) 2010 employment and population projections estimate that the resident population will increase from 51,000 in 2010 to 62,500 in 2020, although with FIFO this would rise to a total of 66,530 in 2010 and to 96,200 in 2020.¹⁴ The PICC report also forecasts FIFO to increase 83%

between 2010 and 2015 and a further 23% by 2020. Pilbara Regional Planning Committee (PRPC) estimates that FIFO and construction work could inflate resident population estimates by 20-40% in peak times. These figures sit on top of resident workforce growth of 28% between 2010 and 2015 with a further 16,000 extra workers in Karratha alone. The Pilbara Cities vision calls for the population to expand to over 120,000 by 2035.

This will require a sustained average population growth rate of more than 4% per annum for 25 years.

Current planned projects suggest an additional 34,000 workers in 2012 in the region, declining to an additional 21,000 in 2015 (above 2009). This increase implies a doubling of the workforce over the short term to a total of 67,000 in 2012 and settling back to 54,000 in 2015. An intense period of construction drives the peaked profile, with a construction workforce of 27,000 required in 2012, reducing to an additional 15,000 above 2009 construction workforce by 2015.

The operations workforce in the region will steadily increase over the period, with the region likely to require an additional 19,000 operations workers by 2015.

These changes will have substantial impacts on the relative proportion of the Indigenous population. If these projections are realised – and the PICC figures for 2010 indicate that they may well be – then the proportion of Aboriginal to non-Aboriginal people may well decrease. This is despite the fact that the Indigenous population itself has grown steadily over the past couple of decades and continues to do so¹⁵ (Taylor and Scambary 2005: 13); and that, in 2006, the Pilbara Aboriginal population represented the third highest proportion of Aboriginal people in Western Australia¹⁶ (Western Australian Government, Department of Aboriginal Affairs 2011). In addition, the spread of Aboriginal people is varied, with towns like Roebourne, Marble Bar, South Hedland, Onslow with much higher Aboriginal populations than in, for example, Karratha or Dampier; and other areas such as parts of the East Pilbara where the proportion of Aboriginal people is much higher than the regional average. As Taylor and Scambary observe (2005: 13):

The simple point is that, over vast tracts of the Pilbara region, the 16 per cent global Indigenous share statistic¹⁷ can be misleading as large parts of the country away from the demographic influence of urban centres and mine sites remain essentially Indigenous domains where Indigenous people and their institutions predominate.

A large variation occurs even within towns. In South Hedland, for example, the 2006 census figures show a spread of Aboriginal residents across the town from eight to nine per cent in some areas to twenty-eight to thirty-three per cent in others. (These papers are accessible in chapters 10-15 of the remoteFOCUS Compendium).

Government and Industry have done some excellent work documenting the scale of the changes proposed for the Pilbara and the following snapshot provides a sense of the governance challenge that lies ahead.

Pilbara Cities

Over the next two decades the Pilbara residential population is expected to grow significantly, exceeding 140,000 by 2035. This growth will be largely driven by the State government's Pilbara Cities initiative, which aims to secure the long term sustainability of the Pilbara through the development of a robust and diverse regional economy. It is planned under Pilbara Cities that Karratha and Port Hedland will be developed into cities with populations of 50,000, supported by Newman as a sub regional centre with a population of 15,000.

This vision was timely and projected a positive future for the Pilbara which at the same time could redress a number of issues that had developed as a result of the rapid change in the regional profile.

Despite the wealth generated in the Pilbara, in common with the resource industry worldwide, the challenge is to achieve significant economic flow-on effect in the immediate region. That is, despite increased activity the region is still peripheral or marginal to the main economic impact of the resources developments.

A snapshot of the Pilbara in 2006¹⁸ set out the scale of the challenges to be tackled:

Resource Challenges

- The mines are effectively mining the social capital of the region as well as the mineral resources
- Non resource industries accounted for much less than 1% of GRP.
- Expansion in resources sector but no evidence of corresponding expansion in other sectors
- The resource sector accounts for most of the employment.
- Staff fly directly from the east coast to Karratha and Hedland
- The productivity cost of labour turnover (around 40%) is in the order of 175% of annual salary for the 6months after resignation.

Local Business Challenges

- Decline in Small Medium Enterprises (SME's) in 2001 compared with 1995 by more than 20 %.
- Most of the payments to suppliers of goods and services are made outside the region; Significant online shopping taking place.
- Overall cost of living is 49% higher than in Perth.

Demographic Challenges

- The average age of Pilbara residents is 31 though 26% of the Pilbara population is under 14 years of age.
- Number of families in Pilbara decreased by 4.2% 1996-2006 despite an overall population increase.
- The ratio of males to females is 140:100.
- The non-indigenous population is skewed to the 25 – 45 year age bracket;
- The majority are not long-term residents and are grouped in the larger towns of Port Hedland and Karratha. Yet some people have lived in the Pilbara more than 30 years.

Aboriginal Challenges

- Indigenous people currently account for 17.5% of the resident Pilbara population. Over 5700 Aboriginal and Torres Strait Islander people live in the Pilbara
- More than one-third of Indigenous residents are under 15 years of age.
- A relatively smaller number live in Indigenous communities and on pastoral stations.
- 50% of working age Indigenous people in the Pilbara were not in the workforce. (2001 Census)
- Approximately 60% of arrests in the Pilbara in 2003 were of Indigenous people.
- Aboriginal people do not figure prominently in the many planning reports.

Housing Challenges

- High housing costs and difficulties in attracting and retaining employees are two key impediments for small business.
- Savings generated are mainly invested outside the region (including residential housing)
- A house in Hedland costs up to \$1m to build, houses are rented for \$2000 per week. In Port Hedland and Newman median house prices have risen over 800% since 2001 and rents are approaching \$1500-\$2500 per week.
- Unmet housing demand currently 3878 projected to rise to 8614 in 2015.
- Will need additional 40,900 dwellings by 2035 to meet population growth from Pilbara Cities.

Citizenship Challenges

- Average participation rate for registered voters across the Pilbara is 21.1%.

In summary the region had a lack of economic and industry diversity with,

- an over-reliance on the resources and energy industry;
- a lack of long-term population growth;
- high costs of infrastructure and services;
- a lack of clarity over towns service provision; and
- an Indigenous community that is effectively marginalised from the mainstream economy.

The main reasons people left the region was:

- cost of living,
- lack of educational opportunities for children and
- lack of community facilities.

In response to this emerging regional profile and the significant growth of resource investments, and to counter the negative impacts on the social front, the Pilbara Cities initiative was announced by the Premier and the Minister for Regional Development in November 2009. This is the central component of a broader plan to normalise living conditions and cost of living, to enrich the quality of life, and to diversify economic opportunities: to use some of the vast wealth produced in the region for the social benefit of the people who live there and to make newcomers want to stay. The objective is to have two cities, Karratha (Karratha and Dampier) and Port Hedland (Port Hedland and South Hedland), each with a population of 50,000. Newman would become a sub-regional centre; Tom Price, Onslow, and Wickham 'major towns'; Paraburdoo, Roebourne, and Pannawonica 'towns'; Point Samson, Marble Bar, Nullagine, Cossack, and Shellborough 'villages'.¹⁹. Aboriginal 'communities' – unnamed – sit outside this particular planning hierarchy, in a discreetly acknowledged too hard – 'challenging' – basket

The present governance structure

This report explores issues surrounding the design of governance arrangements for the Pilbara. Because of its singular circumstances, this region presents a unique challenge. No other spatial zone in Australia will experience such commercial investment and development. No other region is of remotely equivalent significance for the entire Australian (much less Western Australian) economy. No other region will experience such a conjunction of social pressures: including a disproportionate fly-in-fly out work force; extremely ambitious local developmental plans; and an Aboriginal population that remains marginalised and largely disconnected from the surrounding bonanza.

In response, both state and national government have embraced regional strategies. Initiatives under the auspices of the Western Australian government include Royalties for Regions, the Pilbara Cities vision, Pilbara Development Commission. Following the 2011 review of Regional Development Commissions, the government has decided to retain the Regional Development Commissions but to strengthen their links to the Department of Regional Development and Lands in Perth and to assess needs for extra capabilities.²⁰ At the national level an office (Regional Development Australia – Pilbara) has been established at Karratha and an Advisory Council constituted. These initiatives demonstrate the concern of governments for prosperity and global linkage to march in step with local community development and settlement, not the opposite.

This remoteFOCUS report suggests that present governance arrangements will ultimately need to be augmented. There are few developmental projects in Australian history that match (in scale and significance) what is now unfolding in the Pilbara – the Snowy Mountain scheme is perhaps an analogue although this was largely an engineering project whereas the Pilbara involves social and economic considerations of unusual complexity. Despite the essential role of place based capabilities, these are now under-developed and incapable of addressing contextualised needs.²¹ Moreover, commitments to engagement, consultation and buy-in require much greater capacities for linkage and choice at the regional level. This is in a context in which many extra-regional interests and considerations also need to be accommodated.

There has been significant activity in developing forward plans for the Pilbara over the life of this remoteFOCUS project and already the Pilbara Plan has been superseded by two generations of plans although each version carries some element of earlier planning.

Many attempts have been made to coordinate and sustain efforts—by state and local governments, the mining sector—to diversify the economy, enrich the quality of life and reduce the cost of living. But the rate of change and the underpinning government legal and financial arrangements are such that competing or conflicting

governance and administrative arrangements too often impede co-ordination, let alone cooperation.

How do you establish sound governance in such a complex and changing environment?

How do you plan new cities and operate a business in a region like the Pilbara when the reality is that there are probably thousands of people not in this region who are making decisions every day that have a direct impact on this region?

All levels of government—commonwealth, state, and local—as well as industry bodies, are taking an active role in planning for the Pilbara and the management of current, proposed, and expansion projects. This has resulted in frenetic activity levels of some complexity. In addition to normal departmental responsibilities for their various portfolios –the State government has largely, as a result of the Royalties for Regions program introduced in 2008, established or redefined a number of specialist bodies to oversee Pilbara matters.

From its inception in 2008 till December 2011 Royalties for regions had expended \$361,610 m in the Pilbara

Local Government

Local government plays a significant role in community governance, while the local government sector recognises that the State Government is responsible for strategic issues of State interest and for providing a coordinated approach to issues affecting all Western Australians. Four local government bodies provide a range of local government functions across the Pilbara.

The **Shire of Ashburton**, at nearly half the size of Victoria (105 647 square km), boasts some of the world's largest open cut mines, largest pastoral leases and cattle stations and a thriving fishing industry all set against a beautiful and ancient arid tropical landscape.

The region's 7,000 residents are employed in a variety of industries including oil, gas, mining, cattle, fishing and tourism. The supporting infrastructure also provides employment and career opportunities.

The Shire has four towns Tom Price, Paraburdoo, Onslow and Pannawonica.

The **Shire of East Pilbara** has an area of approximately 380,000 square kilometers and is the third largest municipality in the world. The main townships are Newman, Marble Bar and Nullagine. The town of Newman is home to about half of the shire's population and is seen as a modern mining town with suburban-style homes, which provide a stark contrast to its surroundings of red and desert landscapes. Newman has some of Australia's most beautiful country with spectacular flora and fauna. The 2011 census identified a resident population for the Shire of 8100. Amongst the natural beauty of the Shire is one of the world's biggest

open cut mines being BHP Billiton's Mt Whaleback Mine. It was discovered in 1957 by veteran prospector Stan Hilditch and was named "Whaleback" because the hill resembled the shape of the humpback whale. There are many Aboriginal communities in the East Pilbara such as Jigalong, Punmu, Parngurr, Irrungadji, Pipunya and Goodabinya.

Port Hedland is a town of 15,046 people where life is relaxed and being situated along the ocean provides a variety of aquatic leisure activities and a home for whales and nesting flatback turtles. Port Hedland is an anglers' paradise with a variety of fish such as whiting, mullet, bream and kingfish. Port Hedland lies on an inlet fringed with mangroves and a number of hand shaped tidal creeks which come off its shallow natural harbor.

Port Hedland was originally known by the indigenous Kariyarra and Nyamal people as Marrapikurrinya which means "place of good water". The BHP Iron Ore Mill at Nelson Point is the industrial centre which focuses on the extraction, processing and export of iron ore. The port handles the largest tonnage of any port around Australia. Here the iron ore is unloaded, screened, crushed, stockpiled and exported.

Of the 59,894 people that call the Pilbara home about 19,800 local residents live in the **Shire of Roebourne** located 1,557 kilometres north of Perth on the spectacular Pilbara coast. The Shire of Roebourne consists of five major towns including Karratha, Dampier, Roebourne, Wickham, Point Samson and the historic settlement of Cossack.

Karratha, its thriving regional centre. 42 kilometres north east of Karratha is Roebourne a community with a strong and proud Aboriginal culture.

The Shire of Roebourne is the western gateway to the Millstream-Chichester National Park and the spectacular Dampier Archipelago is just off the coast. Some of the most popular and easily accessible beaches in and around the Central Pilbara Coast are Hearson's Cove, the Dampier Foreshore, Point Samson, Honeymoon Cove and Cossack. There are also numerous beaches on the Dampier Archipelago and the Montebello Islands.

Each Shire has developed a number of strategic plans over recent years in an attempt to fulfil their statutory responsibilities and maintain pace with the changes that are occurring in their regions. Most recently these are:

- Town of Hedland – has developed 'Hedland Futures Today'
- Shire of Roebourne – has developed 'Karratha 2020' which is about to be superseded by 'Karratha City of the North'
- Shire of Ashburton - currently only have a strategic plan to 2012 but are about to release a new plan early next year.

- East Pilbara Shire – has a plan titled ‘Newman Tomorrow’.

It is arguable that none of the four Shires has a current rate base that would enable them to deliver a full range of services expected by ratepayers nor could they sustain the recurrent operational costs of the significant infrastructure investments currently being made without ongoing subsidy.

The Pilbara Regional Council is a statutory body established under the *Western Australian Local Government Act 1995*. It was formed in 2000 and is made up of representatives from the four Pilbara shires: Ashburton, East Pilbara, Roebourne, and the Town of Port Hedland. It was established to take a regional approach to service delivery and to act as a collective voice to government and industry. In 2010, it received funding for three projects to be carried out in the following twelve months: improvement of local government services to Aboriginal communities (\$180,000); the preparation of a Regional Business Plan to investigate shared service delivery between the four local governments (\$170,000); and the promotion of larger strategic infrastructure development and asset preservation and renewal (\$2,275,067 from the Country Local Government Fund).²²

The Pilbara Regional Council governance model recognises that each member council brings specific expertise to the table, and that there is already a spirit of collaboration in the Pilbara. The governance model is neither top down nor bottom up; rather it acknowledges the mutual interdependence of all for the benefit of the region. For a considerable time the PRC was not particularly active.

The Pilbara Regional Council seeks to deliver a voice and attract a financial return commensurate with the Region's contribution to the Australian economy.²³

State Government Bodies

The Pilbara Development Commission is one of nine Regional Development Commissions established under the *Regional Commissions Act 1993* and supported by the Department of Regional Development and Lands. The role of the Commissions is to facilitate and coordinate the development of the region in which each one is based²⁴. The 2010 *Review of RDC's* commented that ‘if regional governance in Western Australia were to be measured against jurisdictions elsewhere in Australia, then the RDC model, with its local staff, CEO and board, would stand out against all other systems, which are broadly centralist in nature’²⁵.

The PDC mission is to empower Pilbara communities to direct their own future as diversified and sustainable centres that are attractive to visit, live, work and invest in.

PDC seeks to shape the future of the Pilbara such that:

- It is a vibrant and sustainable place to live, work, visit and invest.
- Investment is leveraged many times over

- We can attract and retain a strong workforce
- There is prosperity and benefit for everyone

The PDC office in Karratha is now co-located with Pilbara Cities and Landcorp at the Karratha Business Centre.

The Commission undertakes and engages with stakeholders in increasing the knowledge of the region in order to provide policy and decision makers with quality information. Recent and current studies undertaken include a study into the situation of Aged Care in the Pilbara, Demand/Needs analysis for short stay accommodation, requirements for small business support and feasibility of establishing business incubators. PDC is currently undertaking a demand/needs analysis of short term accommodation and feasibility studies for business incubators in Karratha, Onslow and Tom Price.

The Pilbara Dialogue is a high level forum facilitated by PDC for information exchange about development in the Pilbara, agency updates and presentation of guest speakers. Also the e-Pilbara website is an initiative of the PDC to facilitate the ability of local business and industry to share opportunity. It has also set up REMPLAN, an economic modeling program made available to interested parties to model the potential economic impacts of projects in the region. It has the capabilities to identify opportunities for economic development, provide quantifiable regional data for studies and grant applications.

The WA Regional Development Council consists of the chairpersons of the nine Regional Development Commissions, two local government representatives, and the Director General of the Department of Regional Development and Lands. It is the peak advisory body to the Western Australian Government on regional development issues.

In 2010 the WA government commissioned a review of regional development arrangements to undertake a comprehensive examination of regional development and the Regional Development Commissions.

This review chaired by the Hon Wendy Duncan MLC reported in November 2010. Cabinet noted the report on 13 December 2010 and on 11 July 2011 endorsed the Government response.

The Regional Development Council (Council) jointly working with and supported by the Department of Regional Development and Lands (RDL) will be responsible for Legislative changes including:

- **the roles and responsibilities of the Regional Development Commissions (RDC) and the Council being updated through amended legislation to create a new operating model. Such updating will reflect for the Council the direction set by the review committee through recommendations 7 and for RDCs recommendation 8.**

- gaining agreement from the Western Australian Planning Commission (WAPC) on the development of Regional Investment Blueprints to avoid any potential for confusion and role conflict with the development of regional planning frameworks and strategies. The WAPC has asked for a clear distinction between roles and functions, recognising the emphasis in the review recommendations on regional economic and community development, and industry attraction responsibilities. In developing such preeminent blueprints Regional Development Commissions will have mandated authority to bring together stakeholders.

From 1 July 2011 the Council will be provided with additional dedicated and ongoing support, to be located in RDL, as it will have a key role in setting strategic directions, policy prioritisation and strategies common to all RDCs for regional economic and community development responsibilities, including industry attraction. To further strengthen the Council an Executive Chair will also be appointed on a contract for services arrangement from 1 September 2011, providing full-time leadership.²⁶

Recommendation 9.6

Government proposed for recommendation 9.6 that the Department of Regional Development and Lands (RDL) and the Department of Indigenous Affairs (DIA) identify solutions to enhance Aboriginal partnership and governance, to realise human capital for the state, and develop a policy position for the Minister and the Minister for Indigenous Affairs, and Cabinet;

The Aboriginal Affairs Coordinating Committee will progress recommendation 9.6.

Recommendation 10

Establish a Ministerially endorsed and mandated working party to strengthen the integration and alignment of statutory land use planning, regional development, and local government service delivery within existing legislative planning frameworks for the Pilbara region. (This accords with Economic Audit Committee recommendations 6 and 10.)

Government directed that RDL lead in implementing Recommendation 10 as Government will establish a Ministerially endorsed and mandated working party to strengthen the integration and alignment of statutory land use planning, regional development, and local government service delivery within existing legislative planning frameworks for the Pilbara region. There is great potential in having the Commonwealth, through the Regional Development Australia organisations, join this partnership. If successful, the model could be applied to other regions.

This transition is currently taking place.

The Pilbara Cities Office.

In November 2009 Premier Colin Barnett announced the Pilbara Cities Vision and May 2010 the State Budget allocated resources for the establishment of a Pilbara Cities office.

The Western Australian State Government established the Pilbara Cities Office in August 2010 to oversee implementation of the Pilbara Cities Vision and initiate a new governance structure function in the region. It was envisaged the Pilbara Cities Office would evolve over time and it was most important that this would be overlaid with Federal and Local Government functions and organisation:

The Pilbara Cities Office is active in promoting the Pilbara Cities vision and the projects supporting its realisation

The Key Focus areas to achieve the Pilbara Cities Vision are:

- Infrastructure Coordination
- Land Availability and Development
- Community Projects and Engagement
- Economic Diversification

Key challenges arise from the massive growth in recent years and as a direct consequence:

- Housing is less affordable due to unmet demand
- Infrastructure upgrades/expansion are not keeping pace with growth
- Small business numbers have declined partly due to rising costs
- Education and Health services are below expectations
- Community services facilities are aging and inadequate
- Sense of community is in decline, adversely impacted by workforce Fly-in-Fly-Out rosters and 12 hour shifts.

The WA Planning Commission is a statutory authority with state-wide responsibilities for urban, rural, and regional land use planning and land development matters. The WAPC maintains a number of committees, including the Statutory Planning Committee which covers a wider remit than physical planning activity and the Pilbara Regional Planning Committee. The Statutory Planning Committee is the WAPC's regulatory decision-making body. Its functions include approval of the subdivision of land, approval of leases and licences, approval of strata schemes, advice to the Minister on local government planning schemes and scheme amendments.

The Pilbara Regional Planning Committee is one of six regional planning committees set up to advise the WAPC on planning for the region, or part of the region and makes recommendations on the extent and content of region planning schemes. The Commission is supported by the Department of Planning (Department of Planning web site).

The Pilbara Regional Planning Committee 2011 draft *Pilbara planning and infrastructure framework* was released in February 2011 and endorsed by the WAPC in September 2011 as the latest, and only one but perhaps the most ambitious, of a number of regional plans that have emerged in recent years. Many of the latter focus on funding for selected local or regional projects. The Pilbara Planning Framework seeks to ensure that development and change in the Pilbara is achieved in a way that improves people's lives and enhances the character and environment of the region. It addresses the scale and distribution of future population growth and housing development as well as identifying strategies for dealing with economic growth, environmental issues, transport, infrastructure, water resources, tourism and emerging impacts of climate change.

The WAPC has published a range of plans and policies relevant to planning for the Pilbara, including:

- Shire of East Pilbara Local Planning Strategy
- Onslow Regional Hotspots Land Supply Update (2008)
- Pilbara Planning and Infrastructure Framework
- Port Hedland Area Planning Study (2004)
- Port Hedland Regional Hotspots Land Supply Update (2011)
- Karratha Regional Hotspots Land Supply (2010)
- Karratha Area Development Strategy (2007)
- Newman Regional Hotspots Land Supply Update (2008)

There are local planning schemes operative in the Pilbara:

- Shire of Ashburton Town Planning Scheme No 7
- Shire of East Pilbara Town Planning Scheme No 4 District Zoning Scheme
- Town of Port Hedland Town Planning Scheme No 5
- Shire of Roebourne Town Planning Scheme No 8

In 2009, the Pilbara Development Commission published its *Strategic Plan 2010-2053*. Also in 2009, the State Government announced the Pilbara Cities blueprint; the Pilbara Regional Council finalised its *Plan for the future 2010-2014*; and the Minister for Regional Development, Brendan Grylls, set out the Royalties for

Regions Pilbara Revitalisation Plan (Ministerial media statement 11/5/09). The Pilbara Revitalisation Plan was established as a four year program to support the development of the region with an initial allocation of \$300m, which has grown to \$456.8m with additional monies allocated in the 2010/11 State Budget.

Phase two of the plan is being led by the Pilbara Development Commission and the Department of Regional Development and Lands. A strategic directions group established as a sub committee of the Commission's Board, determines the strategic priority areas for the region and recommends projects for funding to the Pilbara Revitalisation Plan Steering Committee and the Minister for regional Development.

Industry Bodies

The Pilbara Industry's Community Council (PICC) is a unique concept set up in 2006 with member companies BHP Billiton Iron Ore, Chevron Australia, North West shelf venture, Rio Tinto Iron Ore, Woodside. Fortescue Metals Groups (FMG) is also a member. Although PICC has become less active as other programs have been put in place, its key commitments were twofold: to increase Indigenous participation in employment in the Pilbara and the sustainability of Pilbara towns. PICC saw collaboration with government as vital to ensure that both sectors work together ²⁷.

PICC has undertaken a number of innovative projects over the past several years including the development of the Pilbara Health Initiative, a review of education in the Pilbara, and forecasting for employment and population projections in the region.

When first established PICC provided a forum for members to co-ordinate existing and proposed industry, community and Government sponsored programmes designed to address their two core objectives to:

- Identify the key drivers of the Pilbara economy and provide a forum for collaboration and co-ordination between industry, community and Government to maximise opportunities for positive change in the region.
- Consult with Local, State and Commonwealth agencies concerning programs, plans and financial arrangements relating to PICC's objectives, and
- Increase key stakeholder and community awareness of industry and government initiatives through effective and timely communication.

In 2008 and 2010, the Pilbara Industry's Community Council commissioned reports, *Planning for resources growth in the Pilbara*, focusing on employment and population projections to 2020²⁸ (Heuris Partners 2008; Waller 2010).

National Bodies

The Council of Australian Governments (COAG) **National Partnership Agreement on Remote Service Delivery** came into effect in January 2009 as part of the Closing the Gap commitments. None of the priority locations in Western Australia is in the Pilbara. The 2009 Report by the Coordinator General for Remote Indigenous Services therefore deals only with the priority locations, which are all in the Kimberley. Despite the economic activity in the Pilbara the range of planning activity in the Pilbara is largely silent on how it links with the Remote Service Delivery objectives.

Regional Development Australia (RDA) was established in 2008 to bring together all levels of government to support the growth and development of regional Australia (Regional Development Australia web site). It is supported by the Department of Regional Australia, Regional Development and Local Government and is made up of a network of 55 non-profit, community-based locally managed committees serving rural, regional, remote and urban communities across Australia. The RDA's are derived from the previous Area Consultative Committees (ACCs).

Regional Development Australia Pilbara Committee (**RDA Pilbara**) was previously the Pilbara Area Consultative Committee. In 2008, the Pilbara Area Consultative Committee – now RDA Pilbara – produced The Pilbara Plan, identifying 43 'essential projects' in conjunction with the Pilbara Development Commission and the Pilbara Regional Council. This formed the basis of RDA Pilbara's August 2010 *Preliminary Pilbara Regional Plan*.

RDA Pilbara works in partnership with all levels of government, industry and the non-government sector, to help build and strengthen communities in the Pilbara region through leadership, collaboration and the provision of responsive and innovative services.

Their most recent strategic plan claims a clear mandate to deliver tangible and ongoing value to the Pilbara region in 5 key result areas.

- Leadership, Inclusive Planning And Decision Making
- Strong Communities
- Environment Sustainability
- Resilient Economies
- Getting Better At What We Do

Given the RDA Pilbara budget is a mere \$353,000 per annum it is difficult for it to be a serious partner in the activities that are taking place in the Pilbara and its contribution is overshadowed by the PDC.

The Office of Northern Australia was also established in 2008 to provide policy advice to the Australian Government on sustainable development issues in, or affecting, northern Australia. One of its immediate priorities was the establishment of the Northern Australia Ministerial Forum, which held its inaugural meeting in December 2010. One of its five key themes is Indigenous employment and skills shortages (Northern Australia Ministerial Forum joint communiqué, 13 December 2010).

Pilbara Governance in a Nutshell

The focus on diversifying the economy has now introduced a number of newer economic development regions that are not geographically aligned with the local government areas.

This is a cyclone of activity with global, national, state, local government, community, aboriginal and industry interests represented, overlapping and duplicated though not all necessarily aligned or understood. Fifteen committees, commissions and Boards with overlapping mandates and some with limited authority or resources, all in a region with a resident population of 46,000 people.

It is clear that the Pilbara is served by range of State, Commonwealth, community, Aboriginal and industry bodies. What is less clear is the extent to which the proliferation of bodies, policies, plans, amounts to a coherent and effective approach to regional issues. Neither is it clear whether it has created the policy turbulence of multiple lines of authority, ever changing policy and funding guidelines and the churning of different levels of territorial authority we refer to among the governance dysfunctions identified in the remoteFOCUS report.

Discussions with local councils and other interests suggests the collaborative arrangement amongst regional councils is not working as well as it could. The prime reason suggested is that, in the absence of a comprehensive development vision based around the local political economy, it is difficult to frame propositions about gains from collaboration. This is compounded by individual arrangements between particular councils and resource companies.

This evidence points to a need for systemic structural reform rather than executive management solutions and streamlining reforms that merely seek to tidy up current arrangements.

Aboriginal: Communities, partnership, interest and perspectives.

In early discussions with the Pilbara Development Commission and the four local government bodies providing services across the Pilbara, it was made clear they all felt there were difficulties in taking account of the interests and engagement of Aboriginal people of the region.

In the recent flurry of planning for the region, including the WA Planning Commission's Pilbara Planning and Infrastructure Framework (2011) and the establishment of Pilbara Cities, the focus has been on attracting more long-term residents from outside and working towards building a more sustainable community. This may be an alternative "vision splendid" but, in its elaboration, Pilbara Aboriginal people—a key group of long-term residents—have been all but invisible.

How the multiple and, as the papers show, important Pilbara Aboriginal organisations meshed with the existing planned or proposed Pilbara governance or administrative structures is not established.

In view of these deficits and, with support from the PDC, the remoteFOCUS project commissioned Dr Mary Edmunds to prepare a series of papers:

- to compile a socio-political overview of Aboriginal people in the Pilbara and report on the dynamics of engagement between Aboriginal people and the institutions of the Pilbara including State and Commonwealth, local government, industry and other Aboriginal organisations;
- to undertake specific targeted studies in the Pilbara that will inform the remoteFOCUS project on ways of Aboriginal people being able to draw the greatest benefit from developments in the Pilbara and the establishment of the Pilbara Cities agenda; and
- to distil from the overview and case studies evidence-based learnings and recommendations as a basis for strategic and positive ways for Aboriginal people to pursue their aspirations through engagement/involvement in governance reforms in the Pilbara and the associated investments occurring in that region.

There are six papers that address these objectives. These papers individually and collectively, vividly illustrate the resultant effects of the governance dysfunctions of current governance structures and practices affecting remote Australia and identified as part of the broader remoteFOCUS project. (These papers are accessible in chapters 10-15 of the remoteFOCUS Compendium).

They point to another critical and unresolved tension for governments: that is, how to achieve greater clarity of national purpose and realisation of appropriate living conditions and opportunities for Aboriginal citizens while at the same time accepting the right of Aboriginal people to cultural distinctiveness and identity.

In addressing this tension the authors hold to the premise that the future of Aboriginal Australia is inextricably bound up with the future of the descendants of the nation's settlers and immigrants.

We rely on the concept of consolidation (a dynamic, interactive, intercultural, two way partnership between equals) as a key component of our forward direction as distinct from concepts of integration or assimilation.

The notion of consolidation emerges strongly from the Pilbara studies as 'partnership'.

The Nature of Rapid Economic and Social Change in Remote Places

Despite new initiatives of government and the private sector, the evidence points to the vulnerability of Aboriginal governance structures trying to deal with the growing demands of resources boom, land negotiations, and very significant streams of new revenue from agreements with resource companies.

Our wider remoteFOCUS findings would suggest that the nature and rapid pace of change will inevitably always have people and groups in tension with ongoing contests.

The pressure to reach agreements can be a cause of divisiveness within and between groups in itself. Research has demonstrated the damaging impact of stress on Aboriginal health. The good intentions of resource company personnel are not a panacea for good health.

In this context the findings of the Indigenous Implementation Board are pertinent when they suggested that it was 'considered premature to seek to define a regional governance model at this time for the Pilbara'²⁹. Their view was based not on incapacity but on an assessment of the high levels of pressure affecting Pilbara Aboriginal groups.

Aboriginal Concept of the Pilbara as a Region

The question of the Pilbara as a single region for Aboriginal people is not self-evident.

Given past displacement and movement, the meanings of 'local' and 'community', in the present social and economic context, are related but not the same.

For Aboriginal people, 'local' refers to two principal domains that underpin and define social connectedness: traditional country, which is larger than native title but now includes that; and place of residence, the town or settlement often referred to as 'community', that is sometimes, but very often not, on traditional country.

For Aboriginal people, then, attachment to 'place' is layered; so that 'place-based' concerns and decisions encapsulate this multiplicity.

For Aboriginal people a region is a network, connecting people across place (locality) and community. And it was always thus, through songlines, ancestral dreaming tracks, marriage exchange, and ceremony, with clear ownership of defined territories but, particularly in the desert, permeability of boundaries. Demarcation of boundaries became clearer towards the coastal areas, but economic and ceremonial exchange extended inland for those groups as well.

The idea of the Pilbara as a single region is therefore not alien to its Aboriginal people, though the fit is not so neatly defined.

Whatever the artificialities from an Aboriginal perspective of the definition of the Pilbara as a region, there is a general acceptance, including from Aboriginal people themselves, that this is the level at which Aboriginal people are required to engage if they are to shift the 'institutional asymmetry' that exists between themselves and government, not only at the State and Commonwealth levels but also at the level of local and regional government.

Two themes offer the basis of a way forward for achieving greater Aboriginal participation and inclusion in the governance of the Pilbara. They are:

- Aboriginal principles of regionalism.
- The critical place of Aboriginal organisations as providing 'the institutional framework of Aboriginal civil society and, at the same time, the principal means of Aboriginal civic engagement with the wider world'³⁰.

Aboriginal principles of regionalism

'Relational Autonomy'

Within Aboriginal social and political domains there is a preference, on the one hand, for autonomy, that is marked by a tendency towards localism and high value accorded to local control at the level of small, kin-based congeries of people attached to particular geographic locales.

But this momentum towards atomism, fission and small-scaled autonomy is systemically balanced, on the other hand, by an equally compelling strain towards relatedness.

This ability to scale up or down according to need, capacity, availability of resources, seasonal variation is an important characteristic of Aboriginal organisation.

The tension in Aboriginal groups between atomism and collectivism that has been described as 'relational autonomy'³¹ underlies classical forms of Aboriginal regionalism.

Subsidiarity

Instead of assuming that governance must be centred, bounded and unitary, the Aboriginal principle of subsidiarity, when meshed with the principle of relational autonomy, poses the possibility that federal systems of Indigenous governance can be decentred and accommodate inter-dependent layers.

An important characteristic of traditional subsidiarity is its negotiated division and allocation of roles, rights and responsibilities across different groups and classes of people.

The Indigenous Community Governance Project³² case studies highlighted a ‘two-way’ trajectory for Indigenous governance: namely, a desire for residential decentralisation and localism on the one hand, alongside political centralisation and service regionalism on the other.

Sullivan³³ argues the concept of subsidiarity to include culture as well as governance...It seeks to allocate to central authorities decisions that transcend local particularities, yet at the same time guarantees to regions the right to set policies that reflect regional priorities.

The Pilbara studies make clear that achieving this is not straightforward but it is possible. (These papers are accessible in chapters 10-15 of the remoteFOCUS Compendium).

The studies provide examples of regional movements evolving regional structures, with ‘the creation of connected autonomy where there are tiers of authority, responsibility and entitlement, together with tiers of accountability – down to local constituents, and up to higher organisational levels’

Aboriginal organisations as the institutional framework of Aboriginal civil society

The development of Indigenous sector organisations since the early 1970s has been instrumental in providing Aboriginal cultures with a contemporary institutional framework for building wider networks and taking control of their own modernisation. These are drivers of positive social change, the foundation of Aboriginal modernisation, and the principal means of Aboriginal civic engagement with the wider world.

Aboriginal people, particularly in regional and remote areas, do not achieve their understanding of civic engagement with the wider society from schools or through the media, but through engagement with their local organisations.

Aboriginal organisations provide a visible ‘point of articulation between external agencies and an Aboriginal domain’³⁴.

It has been through active negotiations and hard-won agreements that Pilbara Aboriginal people have carved out for themselves some spaces for the exercise of self-determination.

The Pilbara Development Commission's 2007 Directory of Pilbara Indigenous communities and organisations lists nine regional Aboriginal organisations and 32 local organisations across the four shires.

There is a future scenario whereby in order to achieve Aboriginal employment outcomes from a limited population base Aboriginal people introduced to the region from elsewhere will dilute local voices or confuse the messaging leading to the potential for future conflicts between Indigenous outsiders thus causing deeper division. Aboriginal identity may be a growing issue in the region.

Proportionally the number of Aboriginal people to total population will also decrease as a result of the estimated in-migration of populations to fulfil the Pilbara Cities vision, further weakening local Aboriginal voice. And there will be growing divisions between the richer and poorer groups as a result of the resource carve up and the uneven outcomes of the native title process.

The Pilbara has many examples of effective Aboriginal organisations that demonstrate cultural legitimacy even in the face of the governance dysfunctions of government and the distracting pace of development. Others have failed to achieve such cultural legitimacy and have withered as a result.

Role of Families

There is a danger in family-centric societies that immediate family interests inhibit the ability to work together to solve common social problems or to act for the common good. One of the reasons for this is the absence of community building institutions or, in terms of the present discussion, of any kind of civil society.

The development of good governance models in Aboriginal organisations must, in the immediate term at least, accommodate the principle that 'the familial and genealogical parameters of Indigenous community and regional governance are critical to the success of any policy implementation and capacity development initiatives around governance'³⁵.

Consequently, Aboriginal organisations do not constitute just another corporation readily amenable to the usual corporate governance norms.

Cultural legitimacy within a region

Aboriginal organisations have proven capable, legitimate, and accountable institutions that can manage the evolving nature of social contestation, which is an inherent part of any changing society. However sometimes this process requires a network of organisations rather than any single one.

The role of ‘trusted outsiders’

The most successful Aboriginal organisations operate with a combination of local Aboriginal and non-Aboriginal employees, working to and with an effective Aboriginal board. In these instances, the key elements for the non-Aboriginal staff are trust – we are back to the relational model – and competence.

There is another category of trusted outsider which has proved effective in other situations, that of independent community mentors or brokers – often the funded broker – to enable effective community-government interactions.

The place of Pilbara Aboriginal people in decision-making for the region

The Pilbara studies make clear that the current government intervention in planning for the future of the Pilbara has failed to include Pilbara Aboriginal people in any comprehensive way.

In current Pilbara planning Aboriginal people figure as a separate and subordinate rather than integral consideration in the broader regional vision for the future - as contributors to rather than participants in the region, with much of that contribution designated as playing a role in the protection of cultural heritage.

This is a fundamental disconnect from the way that Aboriginal people see themselves and their place in the region, and the equality that they seek in partnership with both industry and government.

The Indigenous Implementation Board’s experience is that with each new conversation the need for unity has been increasingly affirmed by participants and that plans to develop workable regional processes are becoming the main determination of conversation outcomes.

There remains little evidence – despite best intentioned efforts - that government, whether Commonwealth or State, is delivering a more coordinated and sustained approach to engagement with Aboriginal people or to service delivery. If anything, the bewildering array of programs has increased, while longer-term programs like CDEP – pooled unemployment benefits supplemented with amounts for capital and administration - have been extensively revised or withdrawn altogether. This has been despite the fact that individuals and organisations had come to rely on CDEP for essential funding and income. Nevertheless, organisations have shown remarkable resilience in dealing with these changes.

There is positive and important engagement through the Royalties for Regions and collaboration between the Department of Indigenous Affairs and Pilbara Cities; but the principal focus is not on integrating or consolidating Aboriginal residents with a broader population. Rather, it is on encouraging long-term migration to the Pilbara

of outsiders, who will not just live but die there, with a key performance indicator for the success of sustainability being 'when the cemeteries are full'³⁶.

What the Pilbara studies also make clear is that, despite this marginalisation from the broader planning, there is vigorous and sustained Aboriginal activity happening across the region, mainly through organisations, and that Aboriginal people want to be included as equal partners in making decisions about the future of their country, at both local and regional levels.

What is required from government is the development of an enabling, collaborative environment that, in working towards the establishment of regional Pilbara Aboriginal voices, provides appropriate support but also ensures the creation of structured and effective pathways between this voice – in whatever form it takes – and the established Pilbara bodies: the shires, the Pilbara Development Commission, Pilbara Cities, and any other regional organisations.

Conclusions

The Department of Indigenous Affairs (DIA) and Yamatji Marlpa Aboriginal Corporation, the Native Title Representative Body, are working together to develop a longer term and sustainable model for partnership. However, given the multiple responsibilities of DIA and Yamatji Marlpa, their current resourcing will not be sufficient to achieve a satisfactory outcome in time for Aboriginal inclusion in current processes of planning by Pilbara Cities, the Pilbara Development Commission, or the Shires.

Planning processes cannot be regarded as legitimately 'settled' without achieving satisfactory inclusion of Aboriginal perspectives and interests.

A more urgent process is needed in order to take account of the rapid pace of resource development, its impact on Aboriginal people in the region, and the absence in the WA Planning Commission's 2011 *Pilbara Planning and Infrastructure Framework* of any detail at all about where Aboriginal people fit within the overall Pilbara Cities agenda, whether as Aboriginal communities or in the planning for the hierarchy of 'cities', 'major towns', 'towns', or villages. The planning documents are all silent on issues of regional connectivity, a concept highlighted in international development literature.

There is an urgent need, therefore, for additional dedicated resources and people to undertake this task.

There is as yet no organisation or body in the Pilbara undertaking a regional governance role. There are, however, a number of successfully aggregated community-based organisations, including native title prescribed bodies corporate that operate across the region or parts of the region or across more than one language group.

These offer the prospect of a network of grass-roots bodies that, as one possible model, might be linked in some form of regional governance that responds to the culturally-based preference for *both* local autonomy and wider forms of collective interdependence.

A particular advantage of the model is that it distributes different forms and degrees of accountability across layers, thereby spreading the workload entailed in devolution, and enables 'two-way' accountability to be reinforced (i.e. internal or vertical accountability to Indigenous constituents at different structural levels, and external or horizontal accountability across to public and private sector institutions and levels of government).

This is in line with the concept of place-centred governance proposed in the report *'Fixing the Hole in Australia's Heartland: How government needs to work in remote Australia.'*

A challenge to both government and Aboriginal people is to explore whether the creation of one voice is more important than establishing how the diversity of voices fit together. The wider remoteFOCUS analysis concludes that in peripheral places subject to rapid economic change the nature of the process and the contest that is ongoing between stakeholders mitigates against single voice arrangements. It might be useful to explore a connected autonomy model as an alternative to the unified model that could be advanced as an option.

'New governance institutions must be initiated by Aboriginal people themselves on the basis of their informed consent' – the collaboration model – and 'external coercion and the imposition of governance institutions have little traction in changing behaviour or building commitment and responsibility'¹⁴³

The message from Aboriginal people, repeated so consistently as to be almost trite, is partnership: people wish to act, not be acted on. And there are two main channels through which they express this: affirmation of place, and engagement through organisations. Here, the challenge is to align them with current overall Pilbara planning and development, particularly with government investment in Pilbara Cities.

Pilbara Aboriginal people already have what the Pilbara Cities initiative is attempting to achieve: a sense of belonging based on relationships and the permanence of home.

What Pilbara Aboriginal people want is equal partnership with government and with industry.¹⁴³

¹⁴³ The same very strong message was given by national Indigenous leaders in a Governance Workshop organised by the Attorney-General's Social Inclusion Division in Canberra in April 2010.

Next Steps: Towards Governance Reform in the Pilbara

The resources boom currently unfolding in Australia is potentially the most significant in our history. Because of the time lines projected for export it is technically a growth development rather than a boom. No other resource based growth phase – from the gold rushes of the 1850s on – has promised such a large or sustained contribution to the national economy. This development will touch all Australians, economically, socially and ultimately politically. Employment, migration and residential patterns will also be deeply affected as will the distribution of wealth between states and regions. Amazingly, there is no one comprehensive authoritative document that synthesises the available data or that explores these possibilities.

Some caveats are also in order. Many hold that the international finance system is chronically prone to bubbles and that present resource price inflation may represent in large part its latest version. If this proved to be the case, there could be a sudden and uncomfortable end to Australia's purple patch.

These qualifications aside, the long-term outlook must be judged to be positive – as confirmed in the foreshadowed investments.

The national interest in sustainable communities and in informed Aboriginal choices is overwhelming. To facilitate these outcomes this report envisages the development of a place centred authority with powers that exceed substantially that of the existing regional actors. The existing diverse array of agencies and authorities need to be consolidated and/or placed in relationship to such a unitary structure. The latter of course would need appropriate resources and standing. Moreover other financial arrangements, including importantly personal and corporate taxation incentives, need to be consistent with community development ambitions. The major resource companies have, through their sponsorship of local amenities, displayed considerable enlightened self-interest. But corporate benevolence is no substitute for democratic control and appropriate taxation structures.

An authority with comprehensive responsibilities for matching national purposes and local aspirations and for leading and coordinating governance and administration seems essential if shared stakes in the development of this extraordinary region are to be realised.

The next section of this report describes in a preliminary way how the principles and framework discussed in the remoteFOCUS report might be applied in developing governance options for the Pilbara. The following provisional example works through the six primary steps to establish the context; design parameters; principles, scope and mandate; functions; form; and accountabilities required to establish a governance design for the Pilbara.

We stress that the following proposal represents a tentative response. While we are totally committed to the finding that there needs to be a regional governance authority, many details about its precise role and functioning require more work than has been possible within the scope of this study. These details will be critical to the effectiveness of any agency – and the design needs to be consonant with the views of a complex array of stakeholders. That said, the following indicates the factors that we believe are essential and some suggestions about how these factors might be met.

We have drawn on understandings gained from the many reports written about the Pilbara and the numerous Pilbara Dialogues and community consultations to demonstrate the logic that flows from the remoteFOCUS analysis. Clearly this option is subject to the caveat that further refinement would require a clear mandate and significantly more consultation with a wide range of stakeholders.

It is important to note that the framework and the principles that underpin it should be the focus of further discussion rather than the specific items used in this example.

The Pilbara: An Option for Governance Reform

Context

What are the issues in the region? This covers the key social, economic, demographic, governance or other features which underwrite the need for focused regional action and which need to inform the governance design.

The Pilbara has been historically and now almost entirely driven by economic imperatives rather than government imperatives and currently it is fair to say that government is in catch-up mode.

There is overwhelming community concern that rapid resource development, and in particular FIFO/DIDO workplace practices, has changed the nature of these communities and changed local community outcomes some of which are unsatisfactory.

In recognition of the pace of change, the longevity of the resources boom and the impact of that growth the WA Government, with some Commonwealth support has made significant commitments to community development including a revitalised vision for the Pilbara and intervention in the market. It has proclaimed two twin cities in the Pilbara together with other towns further inland. This vision is the first clear statement of a desired settlement pattern in the north by government since Premier Charles Court many years ago.

- The WA government has completed a planning framework and has locked in budget and a limited amount of legal commitment through the Land Administration Act and Land Development Act.
- The good intentions of the government are further evidenced by the investment in the Royalties for Regions funding in the Pilbara and is now evident in a range of infrastructure and social programs in the Pilbara. Most parties, however, would agree that the pace of change and the depth of demand for services and housing, particularly, mean there is a significant degree of catch-up required. This process is expected to finish in 2035. We infer that in order to achieve this outcome, institutional structures of a similar commitment and longevity will need to be in place to accompany this vision.
- Local authority has been developed, albeit on a limited scale, through the appointment of a general manager to Pilbara Cities, the development of the WA Planning Framework and the work of the Pilbara Development Commission.

- The Commonwealth government relies on RDA Pilbara to plan and engage on a regional basis, while Infrastructure Australia examines opportunities to contribute to major strategic infrastructure projects.

Consistent advice from people living in the region and working in regional institutions is that outside of the negotiations between resource companies, native-title holding groups and the WA Government on land issues there has been a failure to bring Aboriginal people into meaningful partnerships that will ensure they receive the full benefit of the Pilbara vision and opportunity. This is potentially a serious and chronic problem for all the parties. Changes cannot just be dictated by government. How the people of the Pilbara resolve the coexisting realities of Aboriginal people with entrenched legal and communal rights (and income streams and land holdings) and specific identities determined by culture and contract, and the desire of these same groups of people wishing to derive normal citizenship benefits as individuals from services provided by government will be an ongoing challenge. Whether the people of the Pilbara have a governance structure that enables them to meet this challenge is also an open question. (These issues are discussed in much more detail in chapters 10-15 of the remoteFOCUS Compendium).

- Aboriginal people have a significant role to play if the vision is to be achieved. They hold substantial native title rights to land across the Pilbara, and they will lock in substantial income in the form of communal royalty equivalents from these rights.
- Our earlier analysis has shown that in areas where there is a contest for resources, the agreement and negotiating process actually reinforces individual and communal identities and rivalries. In a context of continuing economic change, there will be conflicts between and within Aboriginal groups and between Aboriginal groups, resource companies and government which will need to be resolved in a permanent and relatively workable way.
- There are examples of workable structures in which Aboriginal people have worked their way through analogous issues. This is exemplified in the formation of the Pilbara Indigenous Marine Reference Group in the Pilbara.³⁸ The RPA development on Groote Eylandt³⁹ is a more systematic and long term example of a workable outcome. In both cases, people and governments have been united through finding common objectives and purpose, defined responsibilities, defined resource commitments for all parties and defined timelines for action.
- Agreements that involve directed compensation or royalty equivalent payments to restricted outcomes can ultimately be detrimental to the quality of governance arrangements which will be necessary to sustain a Pilbara Cities vision. Agreements that restrict or reduce capacity to decide what to do potentially limit the growth of good governance among Aboriginal people.

Local government is under-resourced for the challenges that it faces. Its capacity to generate revenue through property taxes is limited. This is because the resource companies engage through a state agreement process currently leaving local shires unable to rate the land resource companies develop for their operations. In this context, local shires must seek support from individual resource companies by 'grace and favour', not by right.

Current institutional structures are not effective or legitimate in either containing or resolving a productive contest on the geographic scale of the Pilbara because no single existing authority is mandated to act in the best interests of the Pilbara as a whole.

Design Parameters

Which agencies currently are/or are not responsible? Based on the present governance arrangements and other specific features set forth in the context, these express the key conditions which need to be met if a regional governance design is to be effective.

Given the various stakeholders who need to be engaged and the likely form that key pressures will take, any governance response in the Pilbara will need the capacity to:

- Establish a shared vision between governments and communities,
- Negotiate compacts that provide clear mandate of responsibilities and a common platform for accountability at all levels of governance,
- Foster place-centred solutions and regional innovations, and
- Ensure resourcing for functional capacity.

Principles, Scope and Mandate

What is agreed as the benchmarks for success? These describe the broad outcomes for the region that need to be realized through the governance design.

The governance body should endure over time and beyond political cycles. It should have a specific charter which empowers it to pursue:

- Social and economic benefits for the people of the Pilbara in balance with both the national and wider state-based interest,
- Social inclusion and equity across the Pilbara where Aboriginal people are integral not an add-on,
- Coordinated multi sector responses to economic and social change,
- Mechanisms to ensure transparency and accountability both 'upwards' and 'downwards',

- Coordinated multi-level responses to the contest of interests within and between government, business and Aboriginal interests,
- Environmentally and socially sustainable strategies for the Pilbara, and
- Practice subsidiarity to the optimum obtainable degree.

Functions

Function refers to the specific role(s) that need to be assigned to realise these outcomes.

There are six main functions that should be undertaken by such a body.

- Maintaining and promoting the Pilbara narrative,
- Brokering and settling agreements (peace-making where agreement is not possible),
- Clarifying the mandates of all levels of government and communities,
- Clarifying outcomes and service standards appropriate to place and scale,
- Matters on notice—anticipating, researching, monitoring, planning and developing strategy, and
- Conducting reviews and reporting, ongoing governance review and action learning.

An important unresolved issue concerns the role of this putative organisation in managing funding (or pooled funding) in relation to ongoing operations. Our view would be that operational delivery and funding disputes will undermine the legitimacy of the body to achieve its five main functions. The functions undertaken by this body should not be in competition with other institutions with specific service delivery requirements.

Through its strategic, synthesising and coordinating role, it would however have an authority that would enable it to shape the nature of the funding recommendations and the delivery of those services by external agencies in the interests of the Pilbara.

Form

This covers the specific governance design, the shape, jurisdiction, powers, responsibilities and resources available to an institution.

The two key aspects of the form of this body relate to how it is constituted legally and who owns it. The overriding condition that must be met is that the people (board members/trustees/directors) who govern the body are ‘above the contest’.

It would be up to the various stakeholders to determine whether this could best be achieved through a legislated **commission or authority** or through a **company**

established under the *Corporations Act* as a company wholly owned by the members along the lines of the RAPAD example, or through some other legal mechanism.

The **term** of people appointed to the ‘board’ of the new body should be for a longer period than the normal political cycle and the characteristics of the board members should align closely with the functions and mandate of the body.

The **number** of people appointed to the body should be smaller rather than being fully representative of a range of Pilbara interest, possibly 5-7 people.

In addition to the people who reside in the Pilbara, the natural interest groups who might comprise the membership are the federal, state, and local government structures that already exist. We have also argued that the Aboriginal interest in the region is deserving of its own recognition and will require appropriate negotiated processes to achieve full participation.

If these groups formed the natural **constituency** of interest in a new governance body to achieve an above-the-contest outcome, it is essential that the people appointed to run the body who are not representative of their direct interests but charged to serve the interests of the Pilbara plus other wider interests.

The governance of the body would be driven by a **charter** or set of rules that constrained the board or trustees to act only in the best interests of the Pilbara and its peoples. We acknowledge that at times this would leave this body in conflict with one or a number of its members and their accountabilities, however, resolving contests would be a principal role of the new body.

The body would be serviced by a **secretariat** and access to a network that would facilitate tasking and engagement of other actors in the region.

Budget and resources to fund the governance body could well be found within existing arrangements, noting, again, that resourcing *must* follow function and a level of funding certainty will be essential for success.

In order to be legitimate the body needs to be **located in the Pilbara** although in the early years it will no doubt be necessary to have a node in *Perth* (this has significant human and financial resource implications).

Authorities and Accountabilities

This covers the specific authority that is assigned to the coordinating organisation. For example, does it have political standing or is it a composite of other authorities, albeit one with independent standing, mission and roles.

Both ‘upwards’ and ‘downwards’ accountability arrangements need to be defined. ‘Upwards’ accountabilities will be to various federal and state political and administrative authorities and agencies; ‘downwards’ accountabilities will be

between the existing and/or putative regional structures and relevant local government, community and other representative bodies and organisations and to local people.

With the overriding charter to act in the best interests of the Pilbara, the body will be required to influence Commonwealth agencies having interests and programs in the region, state agencies operating in the region and local and regional shires and regional authorities including Aboriginal organisations responsible for local outcomes.

In addition to the four shire institutions, the Pilbara Regional Council, Pilbara Development Commission, Office of Pilbara Cities, RDA Pilbara, share an interest and would require a relationship with the new body.

A critical issue is that a new governance body would require mandated authority to act and an ability to achieve the outcomes in the best interests of the Pilbara.

Accountability, ideally, might be through a reporting mechanism such as a joint (federal-state) parliamentary committee or through an auditor-general model. This would ensure that the body was accountable to the public in general but only when judged against its Charter or mandate.

To be effective this body must be capable of influencing the direction of expenditure and performance outcomes across each level of government and at local government level. It must also be capable of negotiating with the private sector to obtain an optimal alignment of interests. Unless the body can hold those responsible for expenditure of such funds accountable through some mechanism then it will not be able to achieve the mandate it has been set.

The Pilbara Challenge

The test of whether new arrangements will improve governance in the Pilbara is that any newly created body has the **authority**, **effectiveness**, and **legitimacy** that allow it to respond to the nature and pace of change in the Pilbara and the contest of positions in response to change.

Political leadership at all levels will have to mandate change based on:

1. Acceptance that the standard concerns set out in the report are based on reality and that more of the same will produce more of the same and therefore a changed approach to how government operates is needed.
2. Acceptance that
 - if the three levels of government and the communities (Aboriginal and non-Aboriginal alike) are working at cross purposes success is impossible because goals are different,

- if members of the communities disagree with or do not support what governments are trying to do wicked problems (health education employment) will not be solved
- in remote Australia government is the main provider of an economy (as against having some industries and particularly mining which do not of themselves ensure an economy as against having an industry), and
- different rules may need to be established for application in the Pilbara, recognising the market distortion and other unique operational realities
- Acceptance that there is a need to have;
- shared goals (vision) based on a shared understanding of context and shared or agreed outcomes
- clarity of mandates, ie an acknowledgement of roles and responsibilities of each level of government and key community elements including Aboriginal communities.
- funding and capability which matches mandates
- ability to adjust mandates and settle disputes over time as no arrangements will be perfect and circumstances will change.
- an ability to look after all the above across the political cycle and according to agreed principles.
- a body or agency authorised by the different levels of government and the community to keep the ring on all of the above otherwise left to themselves the different levels of government will revert to the norm and act in their separate interests and in the interest of regions beyond the Pilbara.
- appointments to lead such a body or agency that are authoritative by nature of those appointed rather than representative. Such appointments should extend beyond the political cycle and be accountable to the stakeholders against the criteria laid down by them.
- Acceptance that to work through these issues in the Pilbara requires a resourced, skilled and independent process to be put in train, and an action/learning/innovation framework to be established.

In the Pilbara a valuable start has been made by the WA Government. Royalties for Regions is a unilateral (that is, State) policy which addresses the traditional failure to provide financial resources to regions sufficient to meet their legitimate needs and aspirations. Pilbara Cities is again a decision by the State to establish unilaterally a unifying vision going beyond ad hoc responses to particular issues.

The next step is to build loyalty to the region - to ensure state and local governments and the different Pilbara communities are on the same page - but this

cannot be done unilaterally. It needs the political leadership of each level of government and the various elements of community in the Pilbara to agree to the need for the sort of approach set out above. Of particular concern is the incorporation of Aboriginal interests into this process through their established representative structures.

Such a body would need, by its composition and legal structure, to be above the contest and endure over time.

It may be possible to achieve this outcome through an adjustment of some existing structures, however, we would argue that the mandate and function proposed for such a governance body suggest a fresh start should be made.

An appropriate discussion of possible new governance arrangements which are sufficiently open to new evidence and new concepts, are serial and sufficiently sustained, and are not immediately politicised is, to say the least, very difficult in the present government policy system.

The integration of legitimate national, state and local interests through structural reform is unlikely to emerge from the public sector or conventional legislative processes. In fact, we argue, such efforts are negated by present governance arrangements.

The reality is that without a mandate for change from senior office holders in the Western Australia and potentially the Commonwealth, such reform will be difficult to achieve. Also, a reasonable level of cross party support in the early stages of development will be necessary to ensure the durability of the body.

Only political leadership, such as that which produced an initiative and policy shift like Royalties for Regions in WA aimed at systemic change to the way government makes decisions, operates and is accountable, will take us beyond a ‘we-must-try-harder’ mantra without regard to the efficacy of the system itself. This cannot be driven from within the bureaucracy, which is constituted within the status quo and bound by its rules. Political leadership needs to come to the conclusion that there is a system problem not a policy problem.

Reform of this nature and scope will not be easy, nor will it be uniform. In some situations people will have to use existing legislation and organisational resources to initiate a start to reform.

Reform will be problematic unless the incorporation of Aboriginal perspectives is a non-negotiable condition precedent. Inadequate and inconsistent resourcing of Aboriginal organisations and government agencies tasked with engaging in partnership with Aboriginal people will hinder attempts to improve governance design in the Pilbara. A prerequisite would be resourcing both government and Aboriginal organisations and communities of Aboriginal people were resourced to

enable them to pursue partnership and greater understanding of the benefits and requirements of governance reform.

One approach would be high-level political support to establish a Pilbara trial where the principles and approach outlined in the report are applied, with the specific aim of developing an on-going process of learning, consensus and regional capacity building - a starting point with a defined scale and scope. This will build momentum for change as required and potentially provide “proof by good example” of the efficacy of such change.

Irrespective of the starting point, the remoteFOCUS report establishes a number of clear criteria, including vision, authority, legitimacy and effectiveness against which reforms at any level can be evaluated.

- Is there a capacity to have a guiding vision or narrative that gives direction and explains the actions of all levels of government, that is, a shared vision?
- Is there a capacity to settle mandates?
- Is there a capacity to match mandates with funding and resources?
- Is there local accountability within the various administrative structures?
- Is there a capacity to review and adapt mandates as experience accumulates and learnings develop?
- Is there a body that is above the contest, authorised by the players to be responsible to oversee all of the above?

At the level of community the concerns expressed in this report need to be articulated in localised contexts across the Pilbara. The voices of community legitimise concerns for politicians to respond to. In their own way community concerns provide the mandate for political leadership.

Continuing community articulation of why their concerns persist and how the current system of governance appears unable to resolve these concerns is a fundamental condition precedent to establishing a mood and appetite for positive reform.

It is now not a case of not knowing what to do, rather a case of having the collective will to do it. Only political and civic leadership will drive the necessary reforms.

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17. Central Australia - Context for Governance Reform

In Central Australia there is a clear need for a unifying vision that goes beyond service provision and law and order and reliance on the boom and bust cycles of commodities. A vision focused at least in part on development of capacity and economic livelihoods, regional connectivity and innovation. Again with three levels of government, representative community organisations, a business community and a web of representative Aboriginal organisations the task is formidable.

What is required is an intense regional engagement around the key social, economic, demographic, governance or other features which underwrite the need for focused regional action and which need to inform the governance design. The process needs to confirm:

- the issues in the region
- what needs to happen at each level of government and of communities themselves
- what are agreed objectives, what are we wanting to achieve
- who is responsible for what tasks including keeping everyone on track over time
- are the resources and capabilities matched to task
- what structure will have the authority and legitimacy to maintain this approach over time

An appropriate discussion of possible new governance arrangements needs to be open to new evidence and new concepts. It needs to be sustained and not immediately politicised.

The following is one possible context statement for Central Australia that might begin that conversation.

Whilst it has a high degree of relevance, it is provided here not because it is the only context statement that could be generated but to highlight the need for a productive engagement across the whole community over a longer period of time to generate a more common understanding of both the context and the key conditions which need to be met if a regional governance design is to be effective. The very fact that the reader may disagree with this preliminary context statement highlights the importance of people developing together a reasonably shared understanding of the context before they proceed to the next steps required to build up the most suitable governance structures for their region.

The remote FOCUS project was not resourced to conduct the full engagement necessary to provide a more definitive context statement or to progress to laying out design parameters required of better governance arrangements, or the principles, scope and mandate of any new structures, or its functions, form, or its authorities and accountabilities. However the following is provided as a preliminary overview, after which some next steps are suggested.

1 Context

Central Australia is a product of its history, its geography and its peoples.

- It covers 64% of the NT and contains 24% of the population.
- As a region, Central Australia has an estimated regional population of 48,000 people including 28,000 in Alice Springs, 3,500 in Tennant Creek and 8,137 in the Barkly Shire, 4,887 in the Central Desert Shire and 7,322 in the MacDonnell Shire.
- Its broad-based and relatively fragile economy has always been subject to fluctuations of the seasons and decision-making taken in places well removed from Central Australia.
- A social profile of the region reflects a political landscape that has effectively driven Aboriginal people away from major urban centres through:
 - The post-war assimilation investments in government communities, and
 - The Aboriginal desire to be close to Country, and
 - The response to the granting of land rights and native title.
- This settlement pattern reflects a response to the longstanding and still current intercultural tension of:
 - Pastoralists needing land and waterholes,
 - Tourists needing services and first-class accommodation,
 - A government class seeking to create public order and moderate the contest of values and land uses, and
 - Aboriginal people asserting their desire to sustain strong linkages to land and culture, and enjoying citizen's rights.

These core elements of settlement in Central Australia are now undergoing significant adjustment. Unlike the Pilbara, where the drive is from the expansion in the resources sector, the drive is from largely Commonwealth and Territory-led reforms of Aboriginal policy and significant financial investment in those reforms accompanied by a hope that the resources sector will also land in the Centre or that tourism will return if the dollar drops. Given the political profile of Central

Australia, the normal processes of democratic government are unlikely to resolve the underlying structural divisions exacerbated by these reforms. The region is in a state of economic transition.

Alice Springs is the major centre for the regional economy. The town has the range of infrastructure and services expected in a regional centre and its local economic base—government services (Aboriginal administration, health and defence related services), tourism, retail, transport and some manufacturing and pastoral and an expanding mining sector.

- It is the service hub for the communities of Central Australia plus the eastern part of Western Australia and the top of South Australia.
- It supplies services not available in any other town within a 1500km radius and is headquarters for two of the three shires in the region.
- Tennant Creek's population has decreased by 9% from 1996 to 2008 with an Aboriginal population in the Barkly Shire of 50% and 24% of the Aboriginal population below the age of 20 years with only 6% of the non-Aboriginal population under 20 years.

Projections have 5,000 Aboriginal people in the Barkly Shire and about 2,000 non-Aboriginal people. These demographic projections sit uncomfortably with the fact there are currently 171 businesses in Tennant Creek, 71% of businesses are locally owned but only 14% are owned by Aboriginal people or organisations. It would appear there needs to be a significant uptake of business by Aboriginal people if the local economy and local services are to be sustained.

Mining produces the biggest share of Gross Regional Product (GRP) in Central Australia including in the Barkly Shire but doesn't employ many people. The other larger government, health and community services sectors employ more people locally but they only represent about 9% of businesses. By far the largest number of businesses are in the property and retail area though these contribute little to GRP.

Twenty-four per cent of the Barkly regional population receive either Centrelink or Job Services network benefits.

Despite having an unemployment rate of just 2.5%, Alice Springs has a two-track economy where the unemployment rate for Aboriginal people sits at 14.2%.

Recent investment of the NT and Commonwealth governments in Aboriginal communities and town camps in Alice Springs and Tennant Creek Transition Plans have delivered a significant economic stimulus into the region.

The economic base of the region is currently precariously positioned and dependent on future government investment. The significant mining opportunities traditionally contribute to the boom and bust nature of the centre whereas tourism and the provision of services to Aboriginal people have made a more consistent contribution

to the region's growth. Failure to understand this would be a significant impediment to current policy reform. The recent rise in the Australian dollar has impacted on tourism and this fact in concert with changed policy settings in Aboriginal affairs have created increased uncertainty in Central Australia.

- Rolf Gerritsen, a Central Australian economist, estimates that if Aboriginal people were suddenly extracted from Central Australia the Alice Springs economy would shrink by 40% and there would be widespread out-migration of non-Aboriginal people.
- This is an indication of interdependency of the Aboriginal and non-Aboriginal populations, and the degree of dependence of Aboriginal people, the Central Australian communities and NT Government on national funding.
- The dilemma for all governments is that the pressure for Aboriginal people to move to find employment and services either has them converging on the hub or migrating further south to large coastal cities.
- If a consequence of these initiatives is to depopulate the remote regions of Australia matters of national strategic interest need to be weighed carefully and governments need to have large programs to house, educate, and employ people in the immigration towns with little immediate capacity to fit easily into urban living.

Whilst the population estimates for Alice Springs have shown a recent increase they mask a decline in the non aboriginal population (by 6% 2001-06) and an increase of in migration of Aboriginal people responding to restrictions in outlying communities and seeking opportunities and services available in Alice Springs.

- One of the challenges for Alice Springs is to build and sustain a workforce in a community which has a high turnover and recent decline in population.
- A significant adjustment would occur if government or defence retreated from the region. The Commonwealth has already shown it is disengaging with direct contact in Aboriginal communities.

Surviving off these longer-term investments are something like 1,800 businesses.

- 79% are micro or small businesses.
- 83% of these businesses are reliant on other external government investment and the transient population (transaction costs of mobility) for their survival.
- These are largely property and business services, construction, retail and transport and storage. The value of the most numerous businesses is not reflective of the business contribution to GRP.

- The region is heavily dependent on government investment and public funds transfers with 35% of the region's population drawing Centrelink or Job Services network benefits.

The failure or inability of current governance arrangements to resolve the differences in values, ideas and land uses that have been at the heart of the intercultural space in Central Australia still challenge the region today.

- The dominance of Aboriginal issues has left the region without the capacity to tackle some of the future challenges. Nor has it allowed the region to develop the types of institutions that will enable contested views to be resolved over time.
- Another contest that remains unresolved is the relationship between the different levels of government and the shuffling of mandates and the lack of clarity around longer term directions for the region.
- The difficulties and underfunding of new shire arrangements and the separation of the largely Aboriginal interests into the shires as differentiated from the Municipality of Alice Springs is a further example of the failure to fully engage and respect the region as a total system rather than two systems requiring two systems of governance.
- At all levels of government there appears to be no one person or department responsible for taking an overview or a holistic view of the impact of change on the region: a view that examines the impact on business, environment and aboriginal and non Aboriginal people who have invested in the region.

Local political realities in Central Australia are such that it is the large number of small business people (who often do not necessarily share either the values of Aboriginal people or of the pastoralists and land managers who are involved in the contest over land use), who are the group who influence political response and who generally support the policing or strategic intervention approach to stabilise the community in the short run rather than the more time and relationship intensive activities that engage Aboriginal people and build community institutions that can deal with and govern the contest of views.

- In this contest, government has increasingly assumed an executive role and adopted a managerial response but invariably that is a controlling role and it has distanced the community from the setting of policy.
- Executive government has used its power to take charge of delivery of service in order to improve human development indicators. It is now able to influence consumption, spending and security of individuals.
- A trade-off in this whole-of-government and strategic intervention approach is that the community has been largely disempowered and the way government has gone about procuring services in support of this approach

leaves little room for local suppliers to be innovative. Without that local innovation the adequacy of the measures in a sustainable sense are questionable.

There are also significant spill over effects in the region.

- Local institutions have become overloaded or where they have contested the executive approach been underfunded and disappeared.
- There has been an expectation created that the Shires will assume greater responsibility for the small communities abandoned by the Commonwealth and the NT Government as they consolidate their growth towns and hub and spoke models of service delivery.
- The interventions have seen an increase in seeing development of the region in security terms both in terms of active law and order crimes within Alice Springs and the policing of pornography and alcohol in outlying communities.

In summary, it could be argued that the executive policy reforms increased rather than decreased marginalisation and typecast Aboriginal peoples' responses to the changed policy environment.

The managerial responses have mixed legitimacy among the people they are directed at and this has provided for contested and turbulent responses among some Aboriginal people and among the non Aboriginal population of central Australia with a consequent loss of hard won social capital. For more remote people it has created a feeling of despair and torpor.⁴⁰

The current Federal Government has renewed interest in regional Australia and has developed a large mix of specific programs. The challenge for governance reform is how to ensure these investments work in the best interests of the region.

Government has demonstrated its good intentions through a long-term commitment to targets to 'Close the Gaps' in a specific number of areas. This commitment has financial commitment, a commitment to be strategic and coordinated not only within the Commonwealth agencies but also between the Commonwealth and the Territory.

Executive control of housing, welfare and security services and social security payments complemented by the placement of government business managers in communities and adjusting the role of the Regional Indigenous Coordination Centres all point to a strong commitment by government.

However, returns from this endeavour appear patchy and, whilst improvements are noted, they are often ephemeral or are outpaced by even more significant improvement in the same indicator among non-Aboriginal populations. In that sense, gap closing may be a problematic measure.

There is a growing agreement within government that training of staff in community development techniques would be desirable and greater community engagement and meaningful consultation and negotiation would also assist in achieving government and community objectives however, there is currently no program to support this. This position is further developed in the remoteFOCUS submission to the *Senate Committee Stronger Futures Inquiry – submission 373*.⁴¹

What is clear from the remoteFOCUS work is that despite a uniformity of analysis of what needs to be done and recognition at the highest levels that current outcomes are problematic, the system of government appears unable to make the necessary systemic adjustments. On our analysis many areas of current systems and practices need to be addressed systemically.

- It is clear that innovative economic policy rather than a singular focus on improved subsidies, welfare and services must be at the heart of policy on Central Australia.
- Economic policy requires more from government than setting macro-economic conditions—it needs to become an active partner in business/livelihood with community and private sector and it needs to be prepared to be innovative – more of the same regional development will not work.
- Agglomeration, regional integration, and regional connectivity are keys to an innovative response in Central Australia.
- Government could stimulate capacity in Central Australia through micro-economic reform including adoption of more innovative regional and procurement policies.
- The current arrangements comprising three tiers of government and a series of ad hoc regional arrangements overshadowed by localised law and order concerns, appear to be incapable of resolving both the priorities and the contests that need to take place around these arrangements.
- The structure and configuration of institutions across central Australia are, therefore, largely not fit for purpose.
- Failure to innovate is most marked in the public sector.
- For Central Australia, the national debate over rights and responsibilities of Aboriginal people and the general question of citizen rights and equity for all Australians has created service expectations that cannot be fiscally sustained in this region.

There are a number of inherent contradictions within the current policy mix impacting on Central Australia.

1. There is a lack of clarity of national purpose as to whether Aboriginal people can pursue cultural difference and whether as a result the nation is prepared to respect Aboriginal difference and allow a future for remote settlements that that difference reflects. At a more nuanced level what cultural difference is Australia prepared to accept, support and fund.
2. As a consequence we currently have an unworkable settlement strategy in Central Australia where the hub and spoke service model of the growth towns strategy and the abandonment of homelands by the Commonwealth set a default policy of population movement to large regional centres without regard to economic issues and being indifferent to the consequences for a range of other employment and human service outcomes that result from such mass mobility.
3. Central Australia has an inadequate economic base to support the infrastructure requirements and the recurrent effects of such a de facto de-population strategy. Fiscal federalism allows the Territory government to apply revenue assessed by the Grants Commission against needs of remote communities to be allocated independently of those community needs.
4. The governance arrangements in Central Australia with elements of Commonwealth disengagement and a distant and largely over-stretched Territory government and grossly underfunded local governments means there is no effective or legitimate means to address concerns unless the Commonwealth invests significantly in regional renewal and alternative governance outcomes. This disengagement means that many of the elements of civic life normally present in a community are not evident in remote communities.
5. Targets for change have been elusive and, in hindsight, judged chronically inadequate and opportunistic, chasing new projects or hoping for mining to arrive or commodity prices to increase. The employment targets required will require more than reliance on markets if government is to sustain any improvement in human development indicators.

The response to these five concerns has been a managerial response that in ways unintended simply reproduces the problems.

Next Steps: Towards Governance Reform in Central Australia

What might then be the basis for a discussion around a new governance reform in Central Australia and what mechanisms might be used to facilitate that discussion?

One approach would be the establishment of a regional innovation trial where the principles and approach outlined in the report are applied, with the specific aim of

developing an on-going process of learning, consensus and regional capacity building - a starting point with a defined scale and scope. This will build momentum for change as required and potentially provide “proof by good example” of the efficacy of such change.

The mix of economic and social issues evident in this context for Central Australia suggest a more systemic and holistic response is required to establish a platform for shared accountability and future development of the region. Regional connectedness and learning are part of the innovation process as proximity is a trigger for innovation.

The remoteFOCUS report suggests that place centred approaches and regional innovation strategies provide an effective mechanism for engaging the community and confirming the views of the multiple stakeholders required to create a shared vision. We are of the view that in order to be systemic this vision has to encompass the whole of Central Australia rather than a mere focus on Alice Springs.

Innovation in its broadest sense involves creating new ideas, and diffusing them into economies, driving changes which improve welfare and create economic growth. It is also increasingly dependent on interpersonal relationships as ideas develop within networks seeking solutions to particular problems. Where innovation takes place these relationships shape informal cultures and formal institutions to create more conducive environments for particular kinds of innovation. There is also a territorial dimension to innovation because innovation relationships depend on proximity for interaction and geographical proximity can allow actors to interact more easily.⁴²

Irrespective of the starting point, the remoteFOCUS report establishes a number of clear criteria, including vision, authority, legitimacy and effectiveness against which reforms at any level can be evaluated.

- Is there a capacity to have a guiding vision or narrative that gives direction and explains the actions of all levels of government, that is, a shared vision?
- Is there a capacity to settle mandates?
- Is there a capacity to match mandates with funding and resources?
- Is there local accountability within the various administrative structures?
- Is there a capacity to review and adapt mandates as experience accumulates and learnings develop?
- Is there a body that is above the contest, authorised by the players to be responsible to oversee all of the above?

The current three-tiered system of government fails to do this adequately in Central Australia. Land Councils and Native Title Bodies provide

effectively a fourth tier of governance adding to the complexity of arrangements.

The test of whether new arrangements are possible in Central Australia is that the process of developing an innovation strategy is able to determine what type of regional governance arrangement will have the **authority, effectiveness, and legitimacy** to respond to the nature and pace of change in Central Australia and deliver on a regional innovation strategy.

Working through these issues requires a resourced, skilled and independent process to be put in train, and an action/learning/innovation framework to be established. It will also require a commitment from each level of government and leading Aboriginal organisations and the Land Council and Native Title Bodies.

We know that more of the same will produce more of the same and therefore a changed approach to how government operates is needed. We accept that:

- if the three levels of government and the community(ies) are working at cross purposes success is impossible because goals are different,
- if members of the communities disagree with or do not support what governments are trying to do wicked problems (health education employment) will not be solved
- in Central Australia government is the main provider of an economy (as against having some industries and particularly mining which do not of themselves ensure an economy as against having an industry), and
- in the short term the pressure of change may require unique operational realities

As we noted in the Pilbara option, it is now not a case of not knowing what to do, rather a case of having the collective will to do it. Only political and civic leadership will drive the necessary reforms.

Endnotes

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